

157085

# VICTIMS OF CRIME SUMMIT



## YOUTH AND ADULT CORRECTIONAL AGENCY

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Craig Brown, Undersecretary

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in conjunction with the

BOARD OF CONTROL  
John Lockwood, Chairman

DEPARTMENT OF JUSTICE  
Dan Lungren, Attorney General

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**TRANSMITTAL LETTER**

Joe G. Sandoval  
Secretary, Youth and Adult Correctional Agency  
1100 11th Street, Suite 400  
Sacramento, CA 95814

Dear Secretary Sandoval:

In 1982, California voters demonstrated their desire for strengthening the State's response to crime victims by overwhelmingly approving Proposition 8, the Victims' Bill of Rights. While this historic initiative addressed several critical issues, it also guaranteed victims two rights -- allocation and restitution -- that directly affect the correctional system.

With this in mind, the Youth and Adult Correctional Agency convened the Victims of Crime Summit in April 1993 for the purpose of reviewing the state of victim services in corrections and developing recommendations for addressing the unmet needs of victims.

Approximately 75 representatives from victim/witness centers, victims of homicide support groups, law enforcement, the judiciary and affected state agencies were invited to participate in the Summit.

Their recommendations focus on five issues: restitution, allocation, notification, offender programming and system improvements. Some of these recommendations will require the enactment of legislation, while others can be implemented through directives issued by the Governor and/or your Agency. All are designed to improve the assistance and services provided to victims of crime and to increase their participation in the criminal justice process. For this reason, we encourage you to share this report with Governor Wilson, his advisors, and your management team as soon as possible.

The Planning Committee appreciates your support of this endeavor and looks forward to working with your Agency in its continued efforts to enhance the rights and role of victims of crime in California's correctional system.

Sincerely,

Sharon J. English, Chairperson  
Office of Prevention and Victims' Services  
California Youth Authority

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## ***CRIME VICTIMS SUMMIT PLANNING COMMITTEE***

Chair: Sharon J. English  
California Youth Authority

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Mark Woodson  
California Youth Authority

## ***ACKNOWLEDGMENTS***

The Planning Committee wishes to extend our sincere thanks to the entire management team of the Youth and Adult Correctional Agency for their interest and participation in the Summit.

We also want to thank those who served as facilitators: Kip Lowe and Dan Beltramo, CYA Training Academy; Carolina Garcia, N.A. Chaderjian School; Judith Embree, retired CYA Manager; and Pete Zajac, Program Administrator, CYA Institutions & Camps Branch. Thanks also goes to our recorders: Clarice DeBarros, CYA Parole Services & Community Corrections Branch; Hal Baker, O.H. Close School; Debra Desart, N.A. Chaderjian School; and Lesa Christensen and Sheri Brizendine, CDC Special Projects Branch.

Special appreciation is extended to Judy Weiss and her dedicated staff at the Youth Authority Training Academy for their invaluable support and assistance.

Finally, we want to acknowledge and thank one of our own Committee members, Mark Woodson, who worked tirelessly and enthusiastically to ensure that the Summit was a success.

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*EXECUTIVE  
SUMMARY*

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## ***EXECUTIVE SUMMARY***

### **BACKGROUND**

June 8, 1982 marked an historic turning point in the movement to secure equal justice for victims of crime in California. It was on this day that the state's voters overwhelmingly approved Proposition 8, the Victims' Bill of Rights. Although this initiative covered numerous criminal justice issues, it also guaranteed two specific rights to crime victims that directly impact the correctional system. These are:

- ◆ The right to testify on the impact of the crime at sentencing and parole hearings, otherwise known as the right of allocution; and
- ◆ The right of victims to receive restitution.

While victims of crime continued to receive increasing attention in the decade following enactment of Proposition 8, the tenth anniversary of this landmark legislation gave rise to some fundamental questions in the minds of corrections professionals:

- ◆ Are the rights established by Proposition 8 being upheld as envisioned by the initiative's sponsors and supporters?
- ◆ Is the criminal justice system more responsive to victims of crime?
- ◆ What still needs to be done?
- ◆ How could policy makers and practitioners most effectively address the unmet needs of crime victims?

To help answer these questions, the Youth and Adult Correctional Agency convened the *Crime Victims Summit* on April 29, 1993 in Stockton, California.

Based on the breadth of their experience and expertise, approximately 75 leaders in the crime victims movement were invited to the Summit. Participants included victim service providers, law enforcement officials, judges, prosecutors, defense attorneys, victim specialists in corrections and related government agencies, and victims of crime.

In an effort to strengthen California's response to victims of crime, particularly as it relates to the role of corrections, work groups were asked to assess the "state of victim services" on five key issues -- Restitution, Notification, Allocution, Offender Programming, and System Improvements -- and to develop specific recommendations in each of these areas.

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Keynote speakers Dr. Marlene Young, Executive Director of the National Organization for Victim Assistance, and Judge Lois Haight Herrington, former Assistant U. S. Attorney General, provided inspiration and guidance to the work groups before their afternoon "brainstorming" sessions. Both speakers acknowledged the tremendous progress made in California, but also underscored their concern for the future of victims rights and services, especially in light of dwindling resources.

The morning agenda concluded with a panel of experts providing participants an overview of each topic and suggestions for future actions.

### **RECOMMENDATIONS**

After much discussion and debate, the work groups made the following recommendations for enhancing correctional policies, programs and procedures related to victims' rights and services:

#### **Restitution**

- ◆ **Simplify and consolidate existing restitution statutes to facilitate their understanding and use.**
  - ◆ **Make restitution collection a higher priority in the Departments of Corrections and Youth Authority by mandating collection from parolees, and authorizing the imposition of sanctions against parolees for willful non-payment.**
  - ◆ **Expand the collection pool to any available resources of the offender, including garnishment, attachments, liens, seizures and trust accounts.**
  - ◆ **Provide ongoing training and information to judicial and corrections personnel on the constitutional right to restitution, the collection and distribution of fines and court orders, and legal issues.**
  - ◆ **Establish a restitution fine formula based on objective criteria, including the number and severity of the crime(s), and enforce the statutory minimum felony restitution fine.**
  - ◆ **Eliminate the maximum restitution fine for adult offenders and the maximum civil liability for parents of juvenile offenders.**
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### Offender Programming

- ◆ Make victim impact awareness efforts a basic component in the educational/treatment programs of CDC and CYA, and provide the resources needed to maximize the number of participating offenders.
- ◆ Focus on expanding the pool of volunteers for victim impact classes, particularly volunteers from ethnic minority communities and persons with bilingual speaking skills.
- ◆ Develop an evaluation tool to measure the impact of the classes.
- ◆ Examine the feasibility of directing CYA parole staff to provide initial and updated victim impact statements.
- ◆ Explore mediation activities for victims and offenders of certain crimes.
- ◆ Expand wage-earning opportunities for inmates, wards and parolees owing restitution.

### Allocution

- ◆ Broaden the scope of persons entitled to attend and speak at parole consideration hearings.
  - ◆ Expand the opportunity for victims to provide input on specific parole conditions.
  - ◆ Direct the Youthful Offender Parole Board and Board of Prison Terms to develop and distribute brochures explaining the parole hearing process.
  - ◆ Develop informational brochures and related materials in languages other than English.
  - ◆ Encourage all criminal justice entities, particularly correctional agencies, to include victim representation in policy planning efforts.
  - ◆ Explore videoconferencing options for enhancing victim participation in life prisoner and youthful offender parole consideration hearings.
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### Notification

- ◆ Study the feasibility of omnibus legislation designed to ensure continuity and enforcement of notification services throughout the criminal justice process.
- ◆ Expand the definition of who is entitled to receive notification and what types of information can be requested.
- ◆ Review notification documents and related victim information materials utilized by the departments/boards within the Youth and Adult Correctional Agency's jurisdiction to ensure that they are "user-friendly."
- ◆ Prepare notification forms and related materials in languages other than English.
- ◆ Encourage the Department of Corrections to contact victims directly regarding their right to request notification.
- ◆ Direct the California Youth Authority and Board of Prison Terms to review "older" cases for notification opportunities.

### System Improvements

- ◆ Appoint or designate a Cabinet-level representative to provide leadership and coordination on victims' issues.
  - ◆ Convene regional or county Victims of Crime Summits.
  - ◆ Mandate victim awareness training for all personnel in the criminal justice system, including judges, law enforcement, probation and corrections.
  - ◆ Focus additional attention and resources on assisting ethnic minority victims of crime.
  - ◆ Make information on California's parole boards available to crime victims from the onset of their contact with the correctional system.
  - ◆ Undertake a study of the victims of juvenile offenders.
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*RESTITUTION*

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## ***RESTITUTION***

### **Overview**

Although the Victims' Bill of Rights recognized the obligation of offenders to compensate their victims for losses incurred as a result of criminal activity, group members agreed that the assessment and collection of restitution orders and fines have yet to become an integral part of the criminal justice system.

We are making progress, however. The California Department of Corrections (CDC) and Department of the Youth Authority (CYA), for example, have both implemented programs to garner wages from inmates and wards for the payment of restitution. In addition, over the past two years, the State Board of Control has conducted an aggressive outreach campaign with key components of the criminal justice system, including judges, district attorneys, probation officers and court administrators, to provide focus and direction relative to the importance of restitution in efforts to assist victims and hold offenders accountable.

The dynamics of why the concept of restitution has not been successfully implemented statewide are complex and varied, but the most significant causes appear to be: (1) competition from other fines and penalties; (2) the absence of organizational resources and leadership responsibility; (3) a lack of understanding and concern within the criminal justice community; and (4) an offender's limited ability to pay.

Highlights of the group's discussion of each of these problem areas are included in the sections following the specific recommendations outlined below.

### **Recommendations**

- ◆ **Simplify and consolidate existing restitution statutes to facilitate their understanding and use.**

The statutes on restitution are found in various sections of the Government, Penal, and Welfare and Institution Codes. Consolidation would facilitate understanding among criminal justice professionals and victims, and should result in the enhanced enforcement of existing statutes and increased collection of restitution.

- ◆ **Make restitution collection a higher priority in both CDC and CYA by mandating the collection of restitution from parolees, and authorizing the imposition of sanctions against parolees for willful non-payment.**
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CDC implemented its system for the collection of court-ordered restitution fines owed by inmates in November 1992. The department currently deducts 20 percent of an inmate's wages and transfers the amount, less a 10 percent administrative fee, to the Board of Control. CDC's Joint Venture Program and 4 C's Restitution Center also collect restitution from offenders' wages. Restitution orders (direct payment to the victim) are excluded from CDC's collection system, and the Department does *not* currently collect restitution from parolees.

CYA wards in institution jobs and Free Venture programs automatically have a percentage of their earnings (usually 20 percent) deducted for restitution, which is paid either to a specific victim (collected only upon his/her request) or to the State Restitution Fund. In cases where both a restitution order and a fine have been imposed, the victim is given preference. When paroled, unpaid restitution balances become a condition of parole, but the only existing sanction for non-payment by parolees is that they cannot earn an Honorable Discharge.

In addition to examining the possibility of increasing the collection rate (current law allows up to 50 percent of an inmate's/ward's wages to be garnered), the group strongly recommended that CDC be required to collect restitution from parolees. A survey conducted by the Board of Control in 1992 revealed that California is only one of four states that do not collect restitution from state prison parolees.

- ◆ **Expand the collection pool to any available resources of the offender, including garnishment, attachments, liens, seizures and trust accounts.**

The law allows local agencies and the State Controller's Office to tap most of these resources, but local agency powers, which took effect in late 1992, have yet to be fully tested, and the SCO has not yet utilized its authority. In the meantime, CDC has proposed legislation (AB 876) to enhance the State's authority to recover monies from incarcerated offenders by allowing access to an inmate's trust account(s).

During discussion on this issue, it was suggested that responsibility for coordinating the collection of restitution be centralized in one agency. The "lead" collection entity in a county is typically either the courts or probation department, but no one organization exercises primary responsibility in this area. At the state level, this function is performed by CDC and CYA. Budget constraints have had an adverse impact on the ability of all of these entities to effectively collect restitution.

While the Board of Control has assumed a de facto leadership role on restitution, the group felt that formal codification of this responsibility/authority would help strengthen California's efforts to enforce victims' constitutional right to restitution.

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- ◆ **Provide ongoing training and information to judicial and corrections personnel on the constitutional right to restitution, the collection and distribution of fines and court orders, and legal issues.**

The paucity of reliable, timely and relevant information concerning restitution and the status of victims has resulted in a lack of understanding within the criminal justice community about what the law dictates, as well as an inability to assess the performance by a court, county or the State on restitution-related issues.

The work group also indicated that there still appears to be a degree of apathy on victims' issues among some criminal justice practitioners. Because there seems to be a sense that the role of the organizations which comprise the community relates exclusively to public safety, the needs of crime victims are not always given the attention they deserve.

The federal government and several other states have identified similar shortcomings and have initiated implementation of a "fine center" function for tracking the collection and assessment activities of their respective entities. A similar approach is under consideration by the Board of Control.

- ◆ **Establish a restitution fine formula based on objective criteria, including the number and severity of the crime(s), and enforce the statutory minimum felony restitution fine.**

Many county courts, particularly in the state's major urban areas, tend to impose only the minimum restitution fine for felony convictions (\$200 as of September 1993). This is contrary to the statutes requiring judges to take under consideration the severity of the crime when imposing restitution fines. Time constraints on judicial and probation personnel may be aggravating the problem and point to the need for an automatic approach to setting fines.

To remedy this situation, the Board of Control has distributed a policy memorandum to all presiding judges recommending that convicted felony offenders be assessed the minimum \$200 fine multiplied by the sentenced years of incarceration and the counts of convictions. The Board has also proposed this formula in legislation. The work group supports the Board's efforts and recommended that similar formulas be developed for felony convictions that do not include incarceration as well as for misdemeanors.

The group also expressed concerns that offenders' claims of indigency seem to be accepted by the bench without any real evaluation concerning their truthfulness, thereby precluding satisfaction of restitution fines/orders, and recommended that the burden of proof be elevated to require that the offender offer substantial evidence to support his/her contention of inability to pay.

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- ◆ **Eliminate the maximum restitution fine for adult offenders and the maximum civil liability for parents of juvenile offenders.**

Under current law, restitution fines range from \$200 to \$10,000 for any felony adult conviction, and up to \$1,000 for a misdemeanor conviction resulting in probation. There is no clear provision for the imposition of a misdemeanor restitution fine when an offender is found guilty and sentenced to jail or assessed a base fine without probation.

By eliminating these artificial limitations on the restitution fine amount and codifying the missing components of the misdemeanor fine structure, more victims would be able to obtain urgently needed financial assistance in recovering from their victimization.

Current law also limits parents' civil liability to \$10,000 for the criminal actions of their children. Although the financial consequences of the juvenile offender's victimization often exceeds this amount, the assets/income of the parents, who are legally responsible, are shielded.

Eliminating this additional artificial barrier will benefit victims and underscore the responsibility of parents to be more accountable for the actions of their children.

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*OFFENDER  
PROGRAMMING*

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## **OFFENDER PROGRAMMING**

### **Overview**

Most offenders have not been confronted with the consequences of their behavior or given any thought to how their victim(s) suffered. Raising offenders' awareness about the plight of victims and holding offenders accountable for their actions are essential to preventing further victimization and helping offenders successfully reintegrate into the community.

Programs designed to achieve these goals have been in operation in the Department of the Youth Authority since 1984 and the Department of Corrections since 1988. The most common are "Impact of Crime on Victims" classes, which have the following objectives:

- ◆ Developing in the offender a sensitivity about the physical, emotional and financial impact of his/her crime on the victim, the victim's family, close friends, and the community; and
- ◆ Instilling in the offender a sense of personal responsibility (accountability) and respect for the rights of others.

### **Recommendations**

- ◆ **Make victim impact awareness efforts a basic component in the educational/treatment programs of CDC and CYA, and provide the resources needed to maximize the number of participating offenders.**

This work group, which included staff and victim volunteers involved with impact classes, viewed this program as a vital part of the correctional experience because it addresses the *values* of offenders and attempts to hold them accountable for what they have done.

All of CYA's institutions and camps conduct impact classes, and the Youthful Offender Parole Board almost always orders the class as part of the offender's required programming. However, because each facility often has only one instructor trained and assigned to teach the class, relatively few wards actually participate -- and the waiting list is growing.

This situation also exists within CDC, where it is not uncommon for offenders to serve their entire sentence without getting information about the impact of crime on victims. Not all institutions offer impact awareness classes, and no new funds have been allocated specifically to increase these activities. About half of CDC's facilities currently conduct some type of victim impact activity, either in a group, pre-release or academic setting.

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- ◆ **Focus on expanding the pool of volunteers for victim impact classes, particularly volunteers from ethnic minority communities and persons with bilingual speaking skills.**

The backbone of victim impact awareness efforts is the participation of crime victims or their advocates who tell offenders their story. However, given the emotional drain this experience has on speakers, there is always a need to replenish the pool of volunteers. This recruitment often takes considerable time. In addition, since most custody facilities are not near urban areas, it may be necessary to provide some incentive or reimbursement to volunteers who are willing to travel to the institution.

Since most of the offenders in the CDC and CYA are ethnic minorities and most of their victims are of the same ethnicity, there is a special need to recruit volunteers from diverse cultural backgrounds and persons who can speak languages other than English, particularly Spanish and Vietnamese.

- ◆ **Develop an evaluation tool to measure the impact of the classes.**

Since 1986, the knowledge gained in impact classes has occasionally been measured by use of a pre- and post-test based on the curriculum. However, there is a need to standardize this test and to evaluate the outcome. The curriculum authors have not tied the classes to recidivism because it would be unfair to measure a 6-8 week effort as a "cure-all." Instead, the test should evaluate the learning of the material and perhaps how it applies to life experiences.

- ◆ **Examine the feasibility of directing CYA parole staff to provide initial and updated victim impact statements.**

Victim Impact Statements, which have been mandated by California law since 1978, allow victims of crime to have a voice in the criminal justice process. It is from these statements, which often include an estimate of a victim's financial loss, that many restitution orders are made directly to the victims.

For CYA, victim impact statements can be vital to establishing a treatment plan for offenders and to holding them accountable. Unfortunately, these statements are not always available, usually because the victim has not been notified of his/her right to make such a statement at the time of sentencing. In these cases, it would be beneficial for the Parole Services and Community Corrections Branch to attempt to contact victims and notify them of their right to make a statement. In addition, because the long-term impact (major medical costs, post trauma reactions such as divorce, suicide) may not be known for many years, it would be extremely useful to have an updated impact statement prior to the offender's parole consideration hearing.

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◆ **Explore mediation activities for victims and offenders of certain crimes.**

Victim Offender Reconciliation Projects and other mediation programs are key components to what is commonly referred to as "restorative" justice. This conceptual framework encourages the establishment of opportunities for offenders to learn about the harmful consequences of their actions, and requires them to take action toward making amends to the victims and the community. While some programs involve confronting only the offender, most bring together offenders and victims for the purpose of airing both sides and reaching agreement on the resolution.

This recommendation is aimed primarily at property offenders, although victims of more violent offenses have also found mediation to be a positive process. The group felt that corrections staff should examine victim-offender mediation programs in other states and make suggestions to the respective departments about incorporating appropriate activities into offender programming.

◆ **Expand wage-earning opportunities for inmates, wards and parolees owing restitution.**

A balanced justice system must hold offenders accountable but must also provide opportunities for them to show that they can be responsible. Unfortunately, there are relatively few wage-earning opportunities in the correctional system. While recognizing that many factors must be considered in assigning jobs to inmates and wards, the group recommended that both the Department of Corrections and the Youth Authority evaluate the feasibility of giving priority consideration to offenders who have restitution orders.

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*ALLOCATION*

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## ***ALLOCATION***

### **Overview**

Among the statutes enacted to implement the "right of allocation" established by Proposition 8 were Section 3043 of the Penal Code and Section 1767 of the Welfare and Institutions Code, which gave victims the right to appear personally, or to be represented by counsel, at parole hearings held by the Board of Prison Terms and the Youthful Offender Parole Board, and to express their views concerning the crime and the offender.

Despite these provisions, many victims still do not exercise their allocation rights at parole hearings. Participants agreed that this is the case for various reasons, including fear, intimidation, lack of awareness, financial constraints, and physical limitations. Many of the group's recommendations seek to increase victim participation in the parole hearing process.

### **Recommendations**

- ◆ **Broaden the scope of persons entitled to attend and speak at parole consideration hearings.**

Under current law, the victim, next of kin of the victim, or two immediate family members related by blood, marriage, or adoption to the victim may appear at a Board of Prison Terms Life Prisoner Parole Consideration hearing, either personally or by counsel, to express their views concerning the crime and the person responsible.

Victims may also appear and speak at parole consideration hearings conducted by the Youthful Offender Parole Board. In addition, legislation was enacted in September 1993 to allow victims to designate their legal counsel, or a family or household member, to represent them and speak on their behalf at a YOPB hearing.

While the law now recognizes that there are circumstances when victims are not in a position to attend a parole hearing or are unable to clearly articulate their opinions, there are also times when the individuals victimized by a crime aren't related by blood or marriage to the actual victim. Examples include roommates, fiancées and co-workers.

With respect to life prisoners, the law gives "interested persons" the right to submit a statement to the BPT in support of or in opposition to the granting of parole. However, group members agreed that persons affected by a crime because of their relationship with the victim deserve the right to *attend* and *speak* at a parole hearing.

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◆ **Direct the Youthful Offender Parole Board and Board of Prison Terms to develop and distribute brochures explaining the parole hearing process.**

The BPT has developed information about its parole hearing process, but this material has not yet been disseminated to the general public. The brochure currently utilized by the YOPB includes information about the composition, duties and activities of the Board, but not about the parole hearing process or victim participation.

To help make more victims aware of their right to speak and how they can exercise this right in parole hearings, the group recommended that BPT and YOPB develop easy-to-understand brochures explaining how the process works and what victims can expect when they attend and speak at a hearing. The group also recommended that a supply of these brochures be made available to all 58 Victim/Witness Assistance Programs.

◆ **Develop informational brochures and related materials in languages other than English.**

This recommendation was made in recognition of the growing number of victims with no or limited English speaking skills. By increasing their understanding of the right of allocation, more victims might choose to participate in parole consideration hearings.

◆ **Expand the opportunity for victims to provide input on specific parole conditions.**

Although victims may request that special conditions of parole be ordered for the offender (e.g., no contact with the victim), the group felt that it was time to evaluate whether existing provisions sufficiently meet the needs of victims. The two primary concerns discussed by participants related to expanding the current "35-mile" radius regarding an offender's placement in the community and allowing victim input on specific parole conditions for a broader range of violent and non-violent offenses.

◆ **Encourage all criminal justice entities, particularly correctional agencies, to include victim representation in policy planning efforts.**

The right of allocation involves victim access and input into the criminal justice process. Although this right is currently limited to sentencing and parole proceedings, the group felt that victims should also have the opportunity to participate in forums, symposiums and other efforts involving the development of criminal justice policies. It was suggested that the Secretary of the Youth and Adult Correctional Agency, perhaps in conjunction with the Director of the Office of Criminal Justice Planning, send a letter to appropriate state and local entities, including the Agency's own departments and boards, underscoring the importance of including victim representation in their policy planning efforts.

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- ◆ **Explore videoconferencing options for enhancing victim participation in life prisoner and youthful offender parole consideration hearings.**

In light of the State's continuing budget problems, both the Board of Prison Terms and the Youthful Offender Parole Board have been examining options for improving operational efficiencies by utilizing videoconferencing technology for institution parole hearings. The quality of videoconferencing equipment has improved markedly over the last several years, and the costs have declined, but there are still a number of issues which must be explored, including overall cost-effectiveness, access to an offender's file, and system compatibility.

While recognizing that videoconferencing options are already being explored, participants recommended that this technology's potential for enhancing victim access to and participation in parole hearings be given serious consideration in the decision making process.

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*NOTIFICATION*

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## ***NOTIFICATION***

### **Overview**

Existing statutes are *intended* to accommodate victim/witness access to information and notification throughout the court and corrections processes. For example:

- ◆ Victims are entitled to learn from the prosecutor's office the sentence recommendations contained in a felony probation report.
- ◆ Victims are entitled to notice of felony sentencing proceedings and of the right to appear and participate in such proceedings.
- ◆ Victims, upon request, have the right to be informed by the prosecution of the final disposition of the case. Victims have a comparable right in juvenile offender cases.
- ◆ Victims, upon request, are entitled to be notified of a parole eligibility hearing and of their right to appear and speak at such hearings.

Because the right of allocution is meaningless without notification, one of the most critical concerns expressed by this group was the lack of standardized notification procedures in many probation departments and district attorney offices concerning the victim's right to appear at sentencing proceedings. This issue, though not directly related to corrections, is addressed in the group's first recommendation and the Appendix.

In the past two years, both CDC and CYA have standardized procedures for notifying victims about parole hearings, and about an offender's release to parole, community programs, escape, capture, and death; however, it is the victim's responsibility to request notification and to keep the departments informed of a current address and phone number.

### **Recommendations**

- ◆ **Study the feasibility of omnibus legislation designed to ensure continuity and enforcement of notification services throughout the criminal justice process.**

There was general consensus that sufficient notification laws exist, but unanimous concern about the enforcement of these laws. Under the current system, there is no way to ensure that mandated services are being provided and no sanction for agencies that do not carry out their area of responsibility. The result is a lingering perception that the State is more concerned about enforcing the constitutional rights of offenders than those of victims.

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In an effort to rectify this situation (and avoid a potential class action lawsuit), participants recommended that the Youth and Adult Correctional Agency establish a committee comprised of members of this work group, law enforcement and probation for the purpose of exploring the development of legislation to ensure that all victims are notified of their rights from first contact with law enforcement through the corrections process.

- ◆ **Expand the definition of who is entitled to receive notification and what types of information can be requested.**

The need to broaden the definition of victim was discussed in the section on allocation, and the same reasoning applies to this recommendation relative to notification. However, in addition to including more persons within the victim category, this work group also felt that victims should be entitled to notification concerning an offender's assigned parole office (for information-seeking purposes) and revocation of parole (for peace of mind).

- ◆ **Review notification documents and related victim information materials utilized by the departments/boards within the Youth and Adult Correctional Agency's jurisdiction to ensure that they are "user-friendly."**

This recommendation is self-explanatory: easy-to-read, easy-to-understand information will enable victims to more fully understand their rights in the correctional arena.

- ◆ **Prepare notification forms and related materials in languages other than English.**

This recommendation, like its counterpart in the allocation section, is an effort to more effectively serve the increasing number of victims who speak languages other than English.

- ◆ **Encourage the Department of Corrections and Board of Prison Terms to contact victims directly regarding their right to request notification.**

The law requires that information about parole hearings and release be provided to victims upon request, but many victims are unaware that they are responsible for requesting notification. For this reason, CYA advises victims of their right to request notification whenever contact information on the victim(s) is provided in the commitment documents. Due to the large number of offenders under its jurisdiction, CDC relies on local probation offices, victim/witness assistance programs, and district attorney offices to advise victims of their right to request notification from CDC. This is a source of concern because there is still confusion at the county level as to which agency is responsible for notification and who should be notified. The Board of Prison Terms, like CDC, *responds* to notification requests but does not initiate contact to advise victims of their rights.

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While acknowledging that implementation of this recommendation will require an augmentation or redirection of resources, participants agreed that victim notification should be a high priority for both CDC and BPT. It was suggested that CDC's intake unit could mirror CYA's activities with respect to advising victims of their notification rights relative to inmates serving determinate sentences, and that BPT could provide the same service to victims of life prisoners.

◆ **Direct the CYA, CDC and BPT to review "older" cases for notification opportunities.**

Although Proposition 8 and subsequent legislation dictated specific rights for crime victims, many of the policies and procedures needed to implement those rights were not developed until years later. This recommendation addresses the need to backtrack on the most serious cases (e.g., homicide, manslaughter, sexual assault and child molestation), those where the offender is still in custody and the victims were never notified of any rights. There are probably hundreds of "old" cases where the victims know "time is running out" on the offender's sentence but don't know the current status or how to access the information.

The importance of this recommendation recently became clear to CYA personnel when they voluntarily researched all of the Proposition 89 cases (those involving gubernatorial review of parole decisions for murderers sentenced to "life" terms) and attempted to notify victims and/or survivors of the pending hearing.

Recognizing that substantial staff time would be required to implement this recommendation, the group suggested that the departments and BPT consider contracting with a victim services organization to perform this work. Participants felt this could reap enormous benefits, both in terms of helping the victims who would be notified and strengthening the partnership between corrections and victims' groups.

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*SYSTEM*  
*IMPROVEMENTS*

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## ***SYSTEM IMPROVEMENTS***

### **Overview**

A system, by definition, involves the interdependency of related parts to form a unified whole. Summit participants were unanimous in their opinion that California's system for assisting crime victims is haphazard and piecemeal, with the various components often functioning at cross-purposes or in isolation.

Crime victims must be informed, be heard, and be served. Every part of the system having any direct contact with victims or their survivors must include these elements in their service plans. However, because no one person is "in charge" of the system, there is no overall coordination -- no statewide plan -- and, as a result, turf battles rage, competition for scarce resources increases, and the victim loses.

### **Recommendations**

- ◆ **Appoint or designate a Cabinet-level representative to provide leadership and coordination on victims' issues.**

The Governor's Cabinet currently includes an appointee responsible for child development and education issues. Crime victims should also have the benefit of a Cabinet-level representative whose responsibilities would include keeping the Governor informed on pertinent issues and overseeing implementation of a statewide victim services strategy.

Participants agreed that this individual should chair an advisory group comprised of key victim service representatives from the Department of Corrections, Department of the Youth Authority, Board of Prison Terms, Youthful Offender Parole Board, Office of Criminal Justice Planning, Department of Justice, State Board of Control, and Peace Officers Standards and Training Commission, as well as representatives from the Victim Witness Coordinating Council, sexual assault and domestic violence programs, and survivors of homicide victims organizations.

It was also recommended that this individual's duties include consulting with the appointments staff and the Governor to ensure that gubernatorial appointments, especially to positions in the justice system, have a crime victim perspective.

- ◆ **Convene regional or county Victims of Crime Summits.**

Participants found the Summit to be timely, inspiring and, above all else, an effective vehicle for identifying problems and developing solutions.

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Recognizing that victim services at the local level are also disjointed, the group concluded that the Summit format should be replicated in all counties, or at least regionally, so that a similar process of evaluation and planning can occur.

The Youth and Adult Correctional Agency was identified as key to the successful coordination of this effort because the serious offenders under the Agency's jurisdiction are residents of all 58 counties. The group indicated that it would like to see four to six regional summits in 1994.

◆ **Mandate victim awareness training for all personnel in the criminal justice system, including judges, law enforcement, probation, and corrections.**

The group felt very strongly that personnel throughout the justice system lack sufficient training on victim sensitivity and on current rights and procedures relative to crime victims. Statewide training opportunities are almost non-existent, and basic training for most personnel does not address victim awareness. In addition, there is no coordinated procedure for ensuring that personnel receive up-to-date information on legislative changes and departmental policies affecting crime victims.

It was also recommended that a review of the training correctional staff receive on victims issues be conducted and, where found to be deficient, that this victim awareness training be enhanced.

◆ **Focus additional attention and resources on assisting ethnic minority victims of crime.**

According to recent Department of Justice statistics, crime in California hits most frequently in the minority communities and most crime is committed on same race victims. Despite these realities, victim assistance programs in ethnic minority communities are increasingly overburdened.

Language differences were identified by this group as a major barrier to helping meet the growing needs of ethnic minority victims, particularly victims in the Spanish-speaking and Southeast Asian populations. One problem is that the bulk of informational materials on California's criminal justice system, especially those related to youth and adult corrections, is printed only in English. In addition, although some corrections staff speak Spanish, they have not been trained in victim awareness and are not routinely available to assist victims who do not speak English.

The group also emphasized that cultural diversity training is critical to improving services to ethnic minority victims, and recommended that YACA assume a leadership role in efforts to increase staff understanding about, and sensitivity to, cultural differences.

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- ◆ **Make information on the operations of California's parole boards available to crime victims from the onset of their contact with the correctional system.**

Most crime victims are unfamiliar with the various components of the justice system, and the group felt this was particularly true about corrections. Although the Department of the Youth Authority and Department of Corrections have developed informational materials for crime victims, similar information about the Board of Prison Terms and Youthful Offender Parole Board is not available.

Crime victims not only need to know what their legal rights are with respect to parole hearings, but also how the process itself works, what they might encounter at a hearing, and even how they should dress.

The group suggested that it might be appropriate to include information about how victims can impact the parole conditions of offenders.

- ◆ **Undertake a study of the victims of juvenile offenders.**

Victims' rights should not be determined by the age of the offender. However, because the nature of the juvenile court is to protect the juvenile regardless of the severity of the offense, victims of juvenile offenders are not as well informed or involved.

Among the issues which should be examined in an effort to better serve and assist the increasing number of citizens victimized by juvenile offenders are confidentiality, the right to speak in court and the collection of restitution.

The American Correctional Association, National Parents of Murdered Children, American Probation and Parole Association, and American Restitution Association have all targeted the victims of juvenile offenders for special study during the next few years. California should provide continued leadership on behalf of victims by taking the initiative in this area.

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*ADDITIONAL  
RECOMMENDATIONS*

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## ***ADDITIONAL RECOMMENDATIONS***

While the Summit's main objective was to develop recommendations relative to the role of corrections and victims' rights, participants also discussed other concerns and, in some cases, offered recommendations for action. These are summarized below.

### **Restitution**

The Board of Control's Victims of Crime Program provides financial assistance to victims for losses incurred as a direct result of a crime. The program is funded primarily from assessments added to fines and penalties imposed on offenders by judges. Higher than expected claim payment approvals and a continued decline in program revenue have impaired the State's ability to compensate victims in a timely manner. To help rectify this situation, the group offered the following proposals:

1. **Re-evaluate the fine/penalty assessment structure:** The state's criminal fines and penalty assessment structure has become exceedingly complex in terms of the number and types of programs eligible for funding as well as the distribution of funds between state and local government. This situation has contributed to shortfalls that have delayed payment of claims by the Victims of Crime Program, one of eight state programs that receive a percentage of the state penalty fund.

To help ensure that victims receive timely financial assistance, the priority in which fines/penalties are collected and disbursed needs to be examined. The group also suggested the need to re-evaluate whether so many state and local programs should be dependent upon fines/penalties as a source of operating revenue.

2. **Institute diversion fees:** Sometimes the courts send defendants to a diversion program rather than sentence them to probation or prison, and offenders who successfully complete the program face no other sanctions. Although defendants placed in a diversion program pay an administrative fee, the Restitution Fund does not receive any of this money. The work group proposed that a modest diversion program fee be instituted, 100 percent of which would go to the Restitution Fund.
  3. **Eliminate restitution fine stays/waivers:** Due to their perception that a defendant lacks the ability to pay, the courts frequently stay (suspend) the restitution fine. The stay/waiver usually becomes permanent if the defendant successfully completes probation. The group felt the courts should be required to order a restitution fine unless the defendant can prove indigence (i.e., place the burden of proof on the defendant rather than the State) and that legislation should be enacted to require defendants to pay the fine after completing probation.
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### Notification/Allocution

The non-correctional issues identified and discussed by participants in these two work groups overlapped, for one obvious reason: Without proper notification, victims are precluded from exercising the right of allocution.

The two primary areas of concern were sentencing proceedings and plea bargain negotiations. Although victims have the right to appear at sentencing, they are not always notified of the setting or postponement of sentencing dates. In addition, victims are not routinely notified of plea bargain negotiations and have little or no input in that process. As discussed in the Notification section, participants felt that the most effective way to address these problems is by implementing standardized notification procedures at both the state and local level.

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*APPENDICES*

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### **Marlene A. Young**

In 1975, after earning her doctorate in political science from Georgetown University and her law degree from Willamette University, Dr. Young became the research director in the Multnomah County Sheriff's Office in Portland, Oregon, where she established one of the first research and demonstration projects dealing with elderly crime victims.

Dr. Young was a member of the founding board of the National Organization for Victim Assistance (NOVA) in 1975, and served as NOVA's president from 1979-1981. She has been its Executive Director since 1981. A skilled and experienced victim counselor, she invented NOVA's Crisis Response Teams.

She has published some 75 articles, chapters, and monographs, and has made presentations on victim-related issues at over 500 international, national, state and local conferences and training seminars.

Her leadership in the victim movement has earned her many honors, including two awards from United Nations-affiliated groups: the Hans von Hentig Award of the World Society of Victimology and an award created in her name by the committee on victimization of the World Federation of Mental Health. In 1988 she was the recipient of one of the annual awards presented by the prestigious Foundation for Justice Improvement.

### **Lois Haight Herrington**

In April 1993, Governor Wilson appointed Lois Haight Herrington as a Superior Court Judge in Contra Costa County.

She previously chaired the White House Conference for a Drug Free America (1987-88), served in the U.S. Department of Justice as an assistant attorney general (1983-86), headed up the President's Task Force on Victims of Crime (1982-83), and was a deputy district attorney for Alameda County (1976-81).

Judge Herrington serves on the board of directors of NOVA and the California Consortium for the Prevention of Child Abuse. She is a past director of the Criminal Justice Legal Foundation.

She earned her bachelor's degree from the University of California, Davis, and a law degree and master's degree in law from the University of California, Hasting College of Law.

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