

A Potpourri of Criminal Justice News and History

A précis to six articles by Leonard Kienzle, Nancy O'Malley, John Wesley Hawk Stoller, Jeffrey Seaman and Paul H. Robinson, Tom Hogan, and Terry McHale

First among the six articles is Leonard Kienzle's "One Hundred Years of the Alameda County All-Star Prosecutors." It is the cover story for this edition of *California Legal History*. Kienzle is a script writer. In his article, he tells us something about each of six former members of the Alameda County District Attorney's Office by purporting separately to "sell" each to a producer in the hopes of making a play, a television show, or movie. Obviously, Kienzle's is an atypical legal story, but interesting for several reasons—most notably, the significance of his six subjects.

In evaluating the format for producing the cover art for this year's journal depicting the six distinguished former members of the Office, renowned artist and lawyer, Terry Flanigan, settled on a style he explains: "The cover art is a perfect example of an illustration. Having been given the elements of a story, I had to visualize how to convey the Idea, six individuals and their relationships to a building, the Alameda County Courthouse in downtown Oakland. Because the law, the past, and a story are a common connection, an early twentieth-century newspaper format seemed like a good candidate, along with its use of encapsulated portraits and monotone cepia coloring. The circle of circles surrounding the Mother Ship (that is, the courthouse), painted in watercolor, provided the answer."¹

¹ Flanigan did the art for the cover without charge. He has done similar legal projects through the years, also without charge. He is very generous with his talent.

Former U.S. Chief Justice Earl Warren is most prominently depicted on the cover at the center top. He is flanked on the left by former U.S. Attorney General Edwin Meese III, and on the right by former Associate Justice Ming Chin of the California Supreme Court. All three men are legal legends; each having left an immense imprint on the law. Across the bottom are three distinguished legal luminaries; each still making an indelible mark on the law—left to right, Associate Justices Carol Corrigan and Martin Jenkins of the California Supreme Court, and Kamala Harris, former San Francisco District Attorney, California Attorney General, U.S. Senator, U.S. Vice President, and recent candidate for President. All six legal luminaries distinguished themselves before leaving the office to serve California and the nation even more broadly.

Earl Warren was posthumously honored with the Presidential Medal of Freedom in 1981 by President Jimmy Carter. Journalist Jim Newton chronicled the large and enduring impact Warren had on America.²

Edwin Meese III was honored with the Presidential Medal of Freedom in 2019 by President Donald J. Trump. Law professors Steven Calabresi and Gary Lawson assert Meese is “the most influential person ever to hold the office of U.S. attorney general.”³

One of the most important speeches of the Reagan presidency was not delivered by the Great Communicator himself. In the summer of 1985, Edwin Meese III—confirmed a few months earlier as the Reagan administration’s second attorney general—appeared at the American Bar Association’s annual meeting. There he declared that under his leadership, the Department of Justice would “resurrect the original meaning of constitutional provisions and statutes as the only reliable guide for judgment.” As Steven Gow Calabresi and Gary Lawson argue in *The Meese Revolution: The Making of a Constitutional Moment*, this address proved to be the clarion call for a movement that reformed the federal judiciary, an accomplishment that rates among the most significant conservative victories of the past half century. Calabresi and Lawson show that Meese served many important roles in his long career, but his influence in

² *Justice for All: Earl Warren and the Nation He Made* (2006). Supreme and appellate justices attending an Appellate Court Institute in 2006 heard Newton speak on Warren. All who attended received a copy of his book.

³ *The Meese Revolution: The Making of a Constitutional Moment* (Encounter Books, 2024). Also see the *Heritage Guide to the Constitution*, 3rd ed. (Regnery, 2025), with a foreword by Meese. Steven Calabresi, “[The Meese Revolution: The Making of a Constitutional Moment](#),” *Reason*, December 9, 2024. Meese also wrote a foreword to the second edition in 2014. The first edition was actually authored by Meese in 2005. Finally, see Law Professor Josh Blackman, “[This Constitution Day, Celebrate the Triumph of Originalism](#),” *Reason*, September 17, 2025.

bringing what we now know as originalism into the legal mainstream was his greatest accomplishment.⁴

Ming Chin established a distinguished and impactful record as prosecutor, trial lawyer, and judge, his final twenty-four years on the California Supreme Court. He was nominated to serve on the state high court by Governor Pete Wilson in January 1996 and confirmed by the California Commission on Judicial Appointments in March 1996. In all, he spent sixty years in the law. After graduating from Hastings College of the Law (now UC Law), San Francisco, he was commissioned a Captain in the United States Army, and in 1969 was awarded both a Commendation Medal and Bronze Star for his meritorious service in the Vietnam War. Chin's oral history appears elsewhere in this journal.

Carol Corrigan was nominated to serve on the California Supreme Court by Governor Arnold Schwarzenegger in December 2005 and confirmed by the California Commission on Judicial Appointments in January 2006. She sits on the state high court to this day. High points of her career in the Alameda County District Attorney's Office are chronicled in Nancy O'Malley's article, "The Remarkable Women of the Alameda County District Attorney's Office," which also appears below.

Martin Jenkins was nominated to serve on the California Supreme Court by Governor Gavin Newsom in October 2020 and confirmed by the California Commission on Judicial Appointments in November 2020. Justice Jenkins replaced Justice Chin who retired. Remarkably, he's been appointed to four different judgeships by Republicans and Democrats. A pair of Republican governors appointed him to state judgeships before Democratic President Bill Clinton made him a federal judge in 1998. He was Governor Newsom's Judicial Appointments Secretary when nominated to serve on the state high court.

Kamala Harris is a unique person. When District Attorney Jack Meehan hired her in 1990, neither he nor anyone else in the office, least of all Harris herself, would have ever imagined what lay ahead for her in law and in politics. She was hired just out of law school as a deputy district attorney in Alameda County. For four years, she handled cases involving the full range of crimes, misdemeanors and felonies. She credits her experience in Alameda County as an important foundation for her legal and political careers that soon began to unfold. For the next several years, she served on the California Unemployment Insurance Appeals Board

⁴ Christopher J. Scalia, "The Indispensable Originalist," *Commentary*, December 2024.

and later the California Medical Assistance Commission. In February 1998, San Francisco District Attorney Terence Hallinan recruited Harris as an assistant district attorney. In August 2000, she went to work for San Francisco City Attorney Luise Renne. In 2002, Harris ran for and was elected District Attorney of San Francisco. In 2006, she ran for and won reelection. In 2010, Harris ran for and was elected State Attorney General. In 2014, she ran for and won reelection. In 2016, she ran for and was elected to replace U.S. Senator Barbara Boxer when the latter chose not to seek reelection. Harris resigned as State Attorney General in 2017 to assume her seat as a U.S. Senator. In 2020, she was selected by former U.S. Vice President Joe Biden, the Democratic nominee for president, to be his vice-presidential running mate. They won in November 2020. In 2024, Harris was nominated to succeed President Biden as the Democratic nominee for president. She lost in November.⁵

Remarkable female prosecutors and criminal defenders

The people who prosecute and defend criminal cases daily labor in anonymity, often into the night and on weekends, to handle unimagined workloads. Prosecutors usually have widespread public support. They are tireless in their efforts to protect the public and protect the rights of the victims of crime and their families. Criminal defense lawyers rarely have any public support. They represent their clients, some charged with grisly crimes that defy credulity, with energy and devotion, even when guilt is obvious. Their personal stories are rarely told. The role of women, as prosecutors and criminal defenders, remains largely untold. This is especially true of the early women prosecutors and criminal defenders. Two articles appear below, one each on early women prosecutors and early women public defenders.⁶ The first, by former Alameda County District Attorney Nancy O'Malley, "The Remarkable Women of the Alameda County District Attorney's Office," tells the story of the early female prosecutors and how immensely their numbers have grown in recent decades. The second, by Supervising Assistant Public Defender in the Sacramento County Public Defender's Office John Wesley Hawk Stoller, "Women Who Shaped Public Defense, A Love Letter," tells the story of early women criminal defenders

⁵ This paragraph comes from Nancy O'Malley's article, "The Remarkable Women of the Alameda County District Attorney's Office," which also appears below.

⁶ These two groups of public officials are primarily represented in Sacramento by three organizations, the California District Attorneys Association (CDAA), the California Public Defenders Association (CPDA), and the California Attorneys for Criminal Justice (CACJ). While, on the defense side, the focus is on early female public defenders, there are many female attorneys in private practice who deal with criminal defense. Perhaps someone from CACJ will submit an article dealing with groundbreaking female criminal defense lawyers in private practice.

and how one of them waged a sustained campaign to credit and adequately fund governmental public defender offices. She prevailed in achieving her primary goal but failed in achieving adequate funding for those offices. Neither prosecutor nor public defender offices are adequately funded.

Getting away with murder and rape

Jeffrey Seaman and Paul H. Robinson base their article, “What Justice? Confronting the Criminal Justice System’s Biggest Problem” on their book, *Confronting Failures of Justice: Getting Away with Murder and Rape* (Rowman & Littlefield, 2024). The authors expose the tragic truth that most murderers, rapists, and other serious criminals escape justice, a horrifying fact that has gone largely unexamined until their book. Their article examines this problem and considers new directions for criminal justice reform. Paul Robinson is the Colin S. Diver Professor of Law at the University of Pennsylvania and one of the world’s leading criminal law scholars. A prolific writer and lecturer, Robinson has published more than 150 scholarly articles in virtually all the top law reviews, lectured in more than 100 cities in 34 states and 27 countries, and had his writings appear in fifteen languages. Jeffrey Seaman is a researcher and writer on the criminal justice system who has published numerous articles in law reviews and magazines. He holds a master’s in behavioral science and is a Levy Scholar at the University of Pennsylvania Law School. Muhammad Sarahne also coauthored the book. He holds several degrees—SJD, LLM, LLB—and is an attorney in the Criminal Department of the State Attorney’s Office in Israel, representing the state in criminal matters before the Israeli Supreme Court. He previously worked as a prosecutor in the Economic Crime Department and was an assistant to the Israeli Deputy Attorney General (Criminal). He is an adjunct teacher at the Law School of the Hebrew University of Jerusalem and has published several articles in American and British law reviews.

Tom Hogan is an assistant professor of law at South Texas College of Law Houston. He previously served as a federal prosecutor and elected district attorney, as well as working as a criminal defense lawyer at major law firms representing Fortune 500 companies and individual defendants. His piece, “Confronting Failures of Justice: Getting Away with Murder and Rape,” is a balanced and fair book review that explains why *Confronting Failures of Justice: Getting Away with Murder and Rape* should be read by every public official in the nation.

Hogan concluded that

Confronting Failures of Justice is a book that should be read by scholars and ordinary citizens. The tragedy of a book like this is that it will be ignored by politicians, activists, and members of the mainstream media who regard it

as a collection of inconvenient truths best swept under the rug. The players in the American criminal justice system with actual skin in the game—crime victims, police, prosecutors, defense lawyers, honest judges, and people who live in communities devastated by criminals—will recognize the integrity of this scholarly work. Robinson and his fellow authors are the proverbial *vox clamantis in deserto*, and we should hope that somebody is listening.

Until our nation’s political leaders—local, state, and federal—and civic leaders take the administration of criminal justice seriously and deal with it systematically, honestly, and adequately fund it every year, crime and violence will continue to disrupt, if not destroy the lives of millions of citizens daily, especially those in inner cities. The public, especially the victims of crime and their families, as well as the accuseds of crime and their families, deserve better. Cardozo said it best almost a century ago in his sage admonition in *Snyder v. Mass.*, 291 U.S. 97, 122 (1934), “But justice, though due the accused, is due the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true.”

Art and lawyers

Perhaps because we are busy with our law practices, artistic endeavors are often put on the back burner while we concern ourselves with helping others. Neglecting our artistic side might hurt us more than we know. If we pursued that artistic side, we might actually benefit as lawyers. As said by Leonardo da Vinci, “Art is never finished, only abandoned.”

While one does not ordinarily think of Albert Einstein as an artist, he obviously considered himself one: “I am enough of an artist to draw freely upon my imagination. Imagination is more important than knowledge. Knowledge is limited. Imagination encircles the world.” Ralph Waldo Emerson agreed, when he said, “In art the hand can never execute anything higher than the heart can inspire.”

Oscar Wilde also had strong opinions about the importance of art, “Art is the most intense mode of individualism that the world has known. (But then again, he also noted that “One should either be a work of art, or wear a work of art.”)⁷

Art has been a part of Terry Flanigan’s life since long before he became a lawyer, and since. Terry McHale tells about Flanigan’s life and times with

⁷ Donna Bader, “Art and Law: Is There a Connection? A Look at the Nexus of Law and Art, and the Works of Four Attorneys and a Judge Who Are Also Accomplished Artists,” *Plaintiff*, April 2008, p. 1. This is a fine article. Every judge and lawyer should read it. Bader discusses how art entered and affected the lives of several lawyers. Donna Bader was a certified specialist in appellate law and was the editor of *Plaintiff* magazine.

flair and eloquence, in “An Intersection of Art and Law in the age of the Baby Boomer,” the story of a lawyer and an artist who served the law for more than forty years, while intermingling art, often portraying important people and events that transformed law and the nation.

McHale is an artist, a skilled writer. He is also a veteran legislative advocate with the venerable Sacramento lobbying firm of Aaron Reed & Associates. He has interviewed and written stories about such interesting Californians as Clint Eastwood, California Assembly Speaker Willie Brown, Kareem Abdul Jabbar, Willie Mays, Congressman Gary Condit, State Senator John Burton, and California Governors Pete Wilson and Gray Davis. He is writing a new and original piece for the 2026 issue of *California Legal History* on Congressman Phil Burton and State Senator John Burton and their immense, decades-long impact on California law and politics.

McHale’s subject here, Terry Flanigan, is not the only legal professional with an affinity and talent for art in the fashion Donna Bader describes in her article in *Plaintiff* magazine. Other such lawyers/artists are former Presiding Justice James A. Ardaiz and Associate Justice Rodney Davis. The two men were great lawyers who became great trial judges and appellate justices.

While Ardaiz and Davis authored hundreds of published appellate opinions, Ardaiz also wrote and published books, both nonfiction—*Hands Through Stone: How Clarence Ray Allen Masterminded Murder from Behind Folsom’s Prison Walls* (Craven Street Books, 2012)—and fiction, including *Tears of Honor* (Pace Press, 2021).⁸

More of Ardaiz and Davis and their art, painting for Ardaiz and sculpting for Davis, are recounted in an article published in their law school magazine as noted in the next two paragraphs.⁹

Although Jim Ardaiz ’74 and the Rev. Rod Davis’74 did not know each other at UC Hastings, their similar career trajectories, first as prosecutors and then as judges, fueled a decades-long friendship that has extended beyond the courtroom to their mutual passion for art and their support of one another’s professional and personal accomplishments.

⁸ *Tears of Honor* is a national award-winning book that tells a story based upon actual events torn from the pages of American history. A sweeping novel of history, war, and courage in the face of injustice, *Tears of Honor* depicts a dark time in American history when Japanese American soldiers fought against Nazi tyranny in Europe during World War II while their families remained imprisoned by the American government.

⁹ “Parallel Lives: Two Former Prosecutors and Appellate Judges Reflect on Their Careers, Their Passion for the Arts, and Their Enduring Friendship,” *UC Hastings*, Fall 2015, at p. 62.

The two men got to know one another after they both became appellate court justices in the late 1980s. Ardaiz spent 30 years on the bench, serving 16 years as the administrative presiding justice for the Fifth District Court of Appeal in Fresno. Davis was a judge for 27 years, 20 of which he spent as an associate justice on the Third District Court of Appeal in Sacramento.

There is another side to Davis: He is now an Episcopalian priest.¹⁰

Elsewhere in this journal you will find articles by Presiding Justice Arthur Gilbert and Maestro Gary Greene, Esq., both under a précis, “Is That All There Is?,” and dealing with the impact of the Los Angeles fires of 2025. Their shared artistic passion is music: for Gilbert, the piano, and for Greene, the Big Band of Barristers and Los Angeles Lawyers Philharmonic and Legal Voices, a 100-person musical choir, all comprised of legal professionals, active or retired. Also see Arthur Gilbert, “Literature and Music—Keys to Judging, My Personal Journey: We Are More Than Our Professions”; Gary S. Greene, “Lawyers and Judges in Harmony”; and “Building an Icon: The Making of Walt Disney Concert Hall,” all in *California Legal History*, California Supreme Court Historical Society (2024), at pp. 221, 237, and 253, respectively.



¹⁰ Father Rod keynoted Sacramento’s first Court-Clergy Conference in 2015 with his presentation of “Religion’s Place in Judicial Decision-Making.” Father Rod brought a unique voice to his talk. Before he was ordained, he served the law for more than thirty-five years, most of it as an assistant attorney general, a trial judge, and an appellate justice. See the related cover art, also by Terry Flanigan.