ANNUAL REPORT AND RECOMMENDATIONS

Committee on Revision of the Penal Code

2025

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RECOMMENDATIONS

Executive Summary

The Committee on Revision of the Penal Code was established by the Legislature and the Governor to study all aspects of criminal law and procedure and to issue recommendations that simplify and rationalize the law. The Committee's work is guided by the goals of improving public safety, reducing unnecessary incarceration, improving equity, and addressing racial disparities in the criminal legal system.

This is the Committee's sixth Annual Report. Over the last five years, the Committee's work has contributed to the passage of more than 20 bills signed into law, including reforms that expanded post-conviction relief, rationalized sentences, and increased diversion opportunities.

This year, the Committee examined issues affecting victims, survivors of intimate-partner violence, the Racial Justice Act, and blanket judicial disqualification motions. After receiving testimony from nearly 30 experts and practitioners, and analyzing, with assistance from the California Policy Lab, data from the California Department of Justice and Department of Corrections and Rehabilitation, the Committee unanimously recommends the following reforms:

1. Require heightened judicial scrutiny of gender-biased evidence in criminal trials.
2. Allow habeas corpus relief for people convicted of failure-to-protect murder under pre-*Collins* standards.
3. Modernize the statutory definition of self-defense in intimate-partner violence cases.
4. Require countywide use of Child Advocacy Centers.
5. Establish a victim's right to be heard and notified regarding criminal protective orders.
6. Ensure that victims in serious and violent cases are notified and have an opportunity to be heard before a plea agreement is accepted.
7. Expand access to trauma-informed "soft interview" rooms for victims and witnesses.
8. Improve the Racial Justice Act by:
    a. Strengthening appellate review of Racial Justice Act rulings.
    b. Improving access to data relevant to claims under the Racial Justice Act.
    c. Clarifying that the Racial Justice Act applies to sentence enhancements
    d. Expanding courts' authority to appoint judicial referees in Racial Justice Act cases.
9. Limit prosecutor blanket judicial disqualification motions under Code of Civil Procedure section 170.6.
10. Update the statutory lists of "serious" and "violent" felonies.

These recommendations reflect legal analysis, empirical research, testimony from victims and survivors, advocates, practitioners, academics, and judges, and experience from other jurisdictions. Several recommendations build on the Legislature's historic work to address intimate-partner violence, strengthen victims' rights, and eradicate racial bias from criminal proceedings.

Prefatory Notes & Data

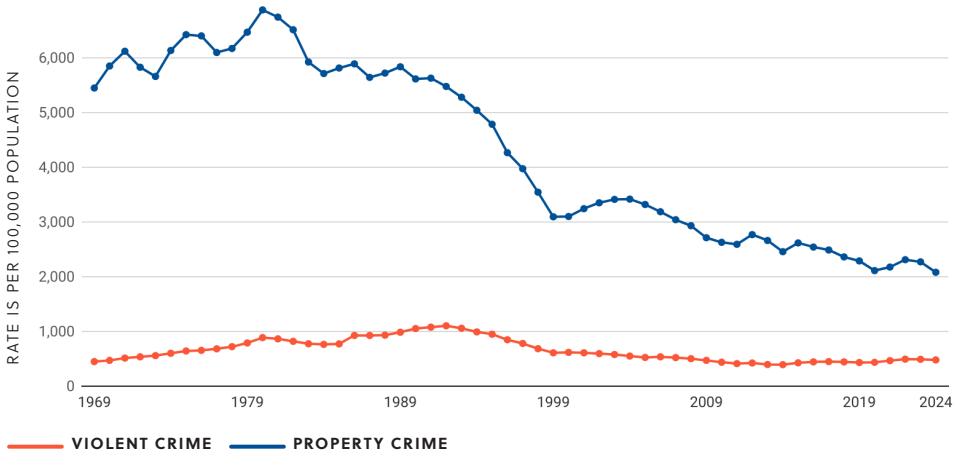
CRIME AND CLEARANCE RATES

As it has in previous Annual Reports, the Committee presents updated information on statewide crime rates. Crime statistics are based on reports from local law enforcement to the California Department of Justice and represent the most complete data currently available. Note that statewide crime data is not made publicly available by the California Department of Justice until the summer following the relevant year.

2024 statewide crime data show:

- Property crime decreased 8.4% — property crimes include burglary, motor vehicle theft, and larceny-theft.
- Overall violent crime decreased 2.1% compared to 2023 — violent crime includes homicide, rape, robbery, and aggravated assault.[1]
- The statewide homicide rate declined 12.2%, continuing the sharp decrease first observed in 2023.

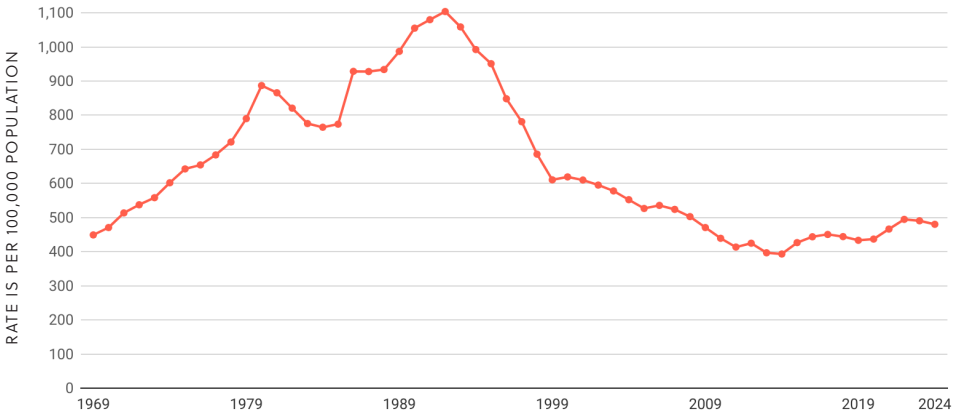
CALIFORNIA CRIME RATES, 1969–2024



Source: California Department of Justice, Crime in California, Table 1. Note that the 2023 violent crime rate includes data for Oakland based on public reports by the Oakland Police Department, not what was reported to the California Department of Justice.

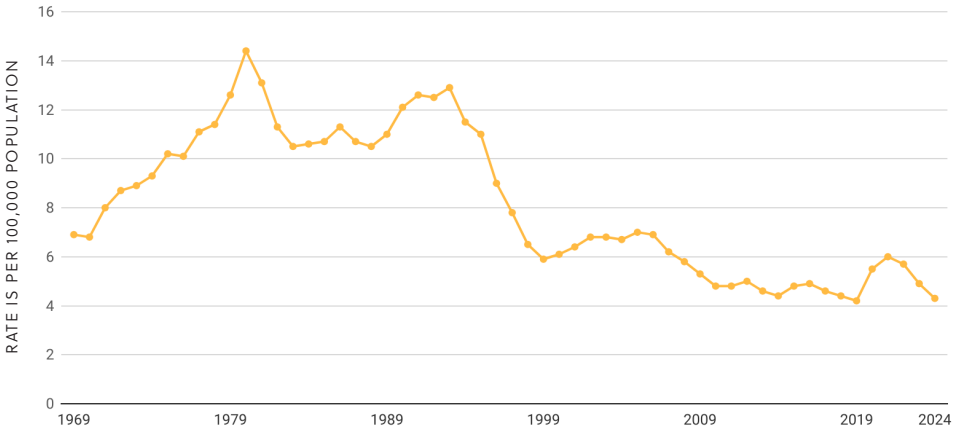
1 Because of acknowledged data issues, the violent crime data for 2023 uses information reported publicly by the Oakland Police Department, not what was reported to the Department of Justice. See Danielle Echeverria, *California says crime is down. But officials know the data is flawed.* San Francisco Chronicle, July 3, 2025. Also, a larger-than-usual number of agencies did not report full data in 2023. See Crimes and Clearances "READ ME", OpenJustice, 14–16 (June 2025). Because some of the differences in crime rates for 2024 compared to 2023 were relatively small, they could change if full data was reported. See, e.g., Magnus Lofstrom, *Overcall Crime in California Fell Last Year, but Shoplifting Continued to Rise*, Public Policy Institute of California, July 22, 2025.

CALIFORNIA VIOLENT CRIME RATE, 1969–2024



Source: California Department of Justice, Crime in California, Table 1. Note that the 2023 violent crime rate includes data for Oakland based on public reports by the Oakland Police Department, not what was reported to the California Department of Justice.

CALIFORNIA HOMICIDE RATE, 1969–2024



Source: California Department of Justice, Crime in California, Table 1. Note that 2023 homicide rate includes data for Oakland based on public reports by the Oakland Police Department, now what was reported to the California Department of Justice.

Despite recent fluctuations in specific offense categories, California's crime rates remain near historic lows:

- The 2024 property crime rate is the lowest in the data, which begins in 1969.
- The 2024 burglary rate is the lowest ever recorded.
- After a nationwide increase during the COVID-19 pandemic, California's homicide rate in 2024 (4.3 per 100,000 residents) is nearly identical to its pre-pandemic level in 2019 (4.2), which was the lowest rate recorded in data dating back to 1966. The 2024 homicide rate is the second-lowest in the available data, and 67% below its peak in 1980.

Early 2025 data also show continued declines. Data compiled by the Major Cities Chiefs Association show that through September 2025, violent crime declined 12% across California's largest cities.[2]

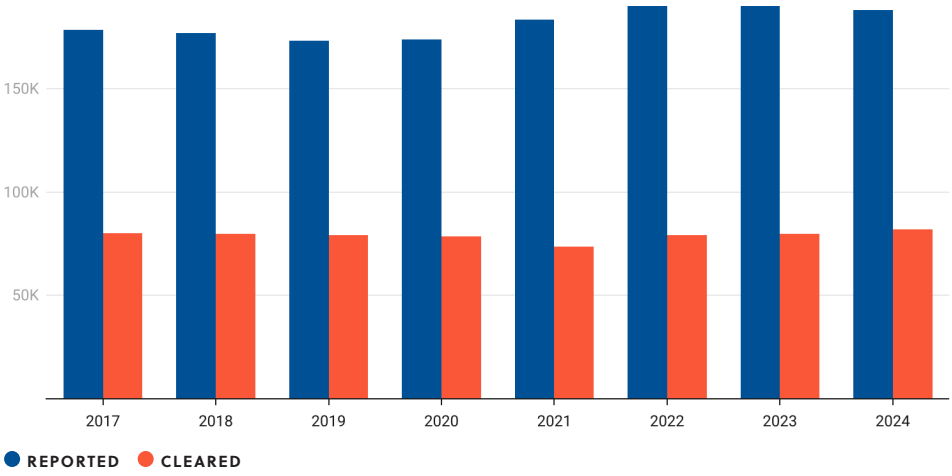
- Homicides fell 18%, reported rapes fell 9%, robberies fell 18%, and aggravated assaults fell 9%.
- The largest overall declines were reported in Oakland (25%) and San Francisco (21%).

While these statistics provide essential context, the Committee continues to caution that reported crime data do not capture the full range of harmful criminal conduct in California. Many crimes — including simple assault, sexual violence, fraud, wage theft, and other economic crimes — are not fully reflected in statewide reporting.

2 Major Cities Chiefs Association, *Violent Crime Survey — National Totals, Midyear Comparison, January 1 to September 30, 2025, and 2024*, November 3, 2025.

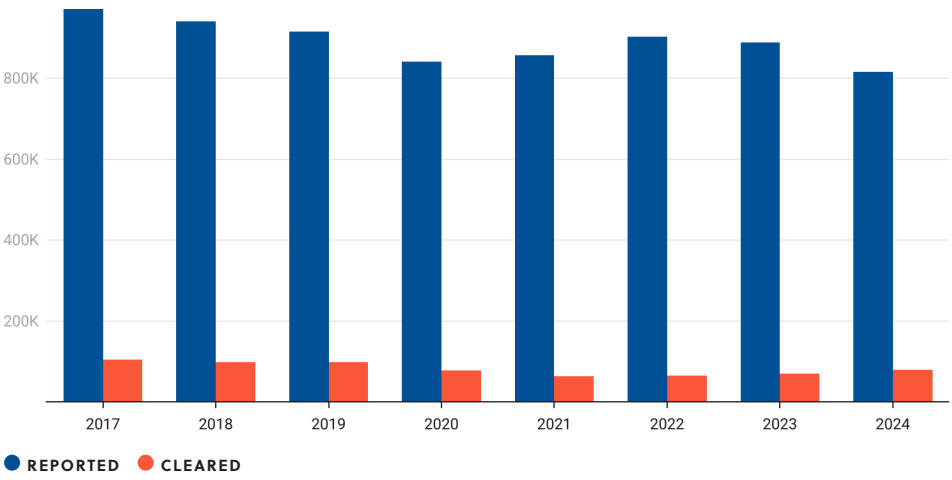
While clearance rates improved in 2024, they remained relatively low: law enforcement made arrests in 44% of reported violent offenses and 10% of reported property crimes.[3]

VIOLENT CRIME CLEARANCES, 2017–2024



Source: California Department of Justice, Crime in California, Table 15. Note that the 2023 violent crime count includes data for Oakland based on public report by the Oakland Police Department, not what was reported to the California Department of Justice.

PROPERTY CRIME CLEARANCES, 2017–2024



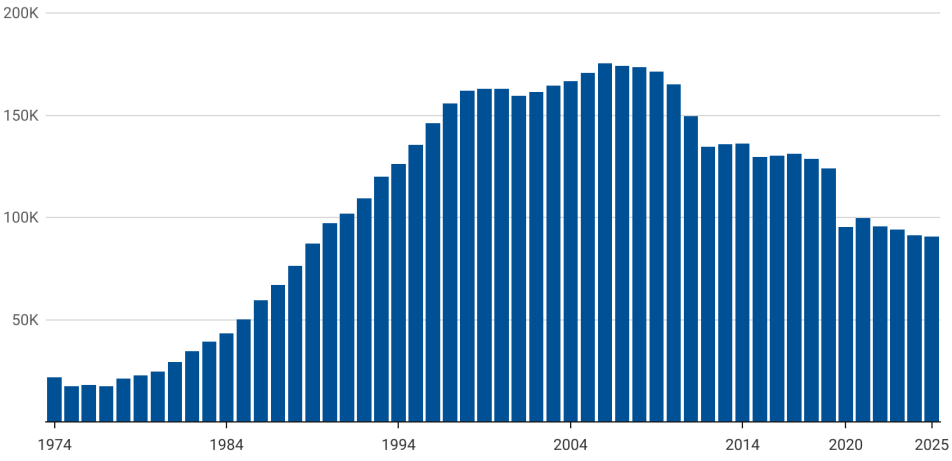
Source: California Department of Justice, Crime in California, Table 15. Created with Datawrapper.

3 California Department of Justice, Crime in California 2024, Table 15.

INCARCERATION TRENDS

California's prison population remains near a 35-year low. Approximately 90,000 people are currently incarcerated in state prison — an almost 50% decrease from the historical high in 2006. Data on prison admissions and releases are now publicly available through California Prison Population Dashboards developed by the Committee and the California Policy Lab, that provide regularly-updated county-level, offense-level, and demographic information.

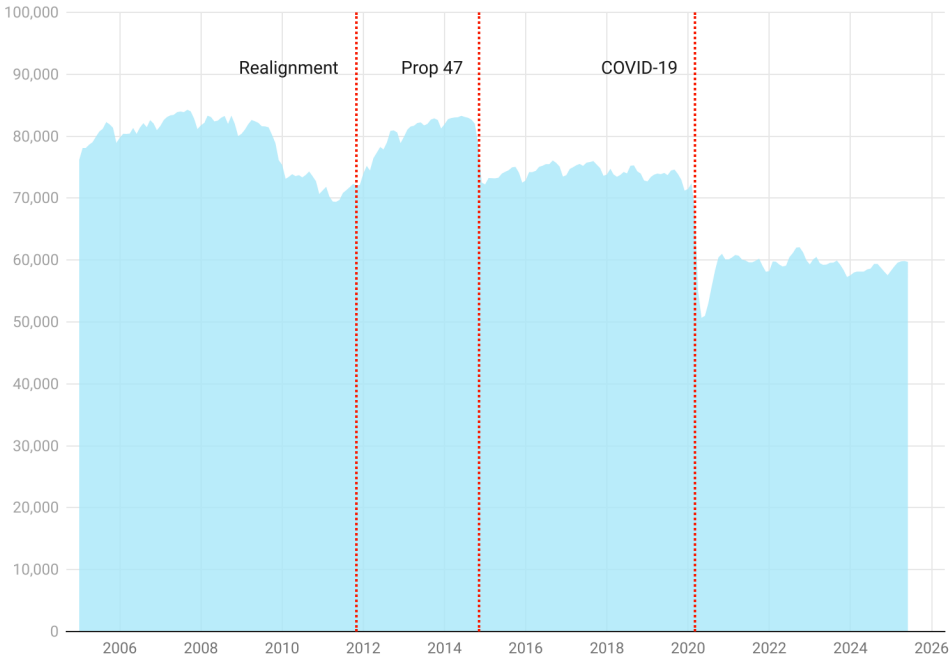
CALIFORNIA PRISON POPULATION, 1974–2025



Source: Population is at yearend 1974–2024. 2025 data is as of November 12, 2025. Patrick A. Langan et al., Historical Statistics on Prisoners in State and Federal Institutions, Yearend 1925–86 (May 1988) (1974–1977); Bureau of Justice Statistics, Corrections Statistical Analysis Tool (CSAT) Prisoners (1978–2018); CDCR Monthly & Weekly Population Reports (2019–2025).

The jail population remains approximately 20% below the pre-pandemic level, though changes in 2025 to sentencing and charging laws — including provisions of Proposition 36 (2024) — may contribute to increases in both jail and prison populations.

CALIFORNIA JAIL POPULATION, 2005–2025



Source: California Board of State and Community Corrections Jail Profile Survey. Data is monthly average daily population and ends June 2025. Realignment was a policy change in 2011 that required sentences for certain non-violent and non-serious felony offenses to be served in county jail, not state prison. Proposition 47 was a 2014 voter initiative that reclassified some felony or wobbler offenses to misdemeanors.

LEGISLATIVE UPDATE

In 2025, 1 bill implementing recommendations from prior Committee reports was signed into law — AB 1036 (Schultz).

Committee staff continued to provide technical assistance to the Legislature, including giving testimony on Proposition 36.[4] Courts — including the California Supreme Court — continue to rely on the Committee's analysis when interpreting and applying the law.[5]

DATA COLLECTION AND ANALYSIS

The Committee continues its partnership with the California Policy Lab, which provides data analysis and publishes research based on administrative data obtained by the Committee with its statutory authority.

In 2025, CPL and the Committee launched a public Prison Population Dashboard, allowing policymakers, journalists, researchers, and community members to access

4 Committee staff testified at budget subcommittee hearings on February 25, 2025, and March 17, 2025.

5 See, e.g., *In re Banks*, 2025 WL 210182 (dissenting statement of Justices Liu and Evans); *In re Mendoza*, 2024 WL 5171483 (dissenting statement of Justices Liu and Evans); *McDaniel v Superior Court*, 111 Cal.App.4th 228 (2025); *People v. Quintana*, 2025 WL 1292652.

up-to-date information on admissions, releases, length of stay, and population trends.[6] CPL and the Committee have also created a data resource, updated monthly, that shows prison admissions and sentence lengths for the new offenses created by the 2024 Proposition 36 voter initiative.[7]

In addition to data presented in this report, the Committee and California Policy Lab produced the following data reports in the last year:

- *The Role of Second Look Policies in Reforming California's Approach to Incarceration* (September 2025)
    - *Second-Look Series: California Department of Corrections and Rehabilitation-Initiated Resentencing* (September 2025)
    - *Second-Look Series: Felony-Murder Reform* (September 2025)
    - *Second-Look Series: Resentencing Under Proposition 47* (September 2025)
    - *Second-Look Series: Retroactive Enhancement Resentencing Under Senate Bill 483* (September 2025)
    - *Second-Look Series: Three Strikes Resentencing Under Proposition 36* (September 2025)
    - *Women in California's Prisons* (July 2025)

These research products provide important context for several recommendations in this report, including post-conviction relief for failure-to-protect murder, self-defense reform, and trauma-informed practices for victims.

LANGUAGE AND TERMINOLOGY

As in past years, this report uses person-first language and avoids terms such as "inmate" or "offender," except when quoting statutory text or court decisions.

6 The dashboards are accessible via californiaprisondata.org
7 The data resource is available at tinyurl.com/prop36

1. Require Heightened Judicial Scrutiny of Gender-Biased Evidence in Criminal Trials

Require Heightened Judicial Scrutiny of Gender-Biased Evidence in Criminal Trials

RECOMMENDATION

California law requires judges to balance the probative value of evidence against its potential for undue prejudice but does not specifically require courts to consider the risk of reinforcing gender-based stereotypes. In some criminal trials, evidence and arguments play on assumptions about sexuality, motherhood, appearance, or a "woman's nature," undermining fairness and, in some cases, contributing to wrongful or overturned convictions.

The Committee therefore recommends the following:

1. Amend the Evidence Code to require heightened judicial scrutiny before admitting evidence or argument likely to trigger gender-based stereotypes, such as:

    a. Information about the defendant's sexual activity, orientation, sexual partners, reproductive choices, gender presentation, or romantic relationships;

    b. Sexually suggestive photos or images;

    c. Evidence related to clothing, appearance, or gender expression when used to suggest or reinforce gender-based stereotypes;

    d. References to a defendant's failure to conform to traditional gender roles, including parenting expectations; and

    e. Appeals to notions of a "woman's nature" or "emotional" disposition.

2. Require a court to hold a hearing outside of the presence of the jury when such evidence is offered, and to apply a balancing test that explicitly weighs the risk of reinforcing gender stereotypes against the evidence's probative value. Courts should also consider credible testimony or research demonstrating that the evidence risks introducing gender bias at such hearings.

3. Prohibit arguments that rely directly on gender stereotypes, such as claims about how a woman should behave.

4. Amend Penal Code section 1473.5 to allow people to petition for habeas corpus relief when they can show that gender-biased evidence or argument affected their trial and that there is a reasonable probability that the outcome would have been different if such evidence were not admitted.

RELEVANT STATUTES

Evidence Code §§ 352, 1107
Penal Code § 1473.5
Cal. Const., art. I, § 28

BACKGROUND AND ANALYSIS

Gender bias in criminal trials can lead to unjust outcomes. This concern is especially heightened in cases involving women and LGBTQ+ defendants, where certain types of evidence — such as prior sexual conduct, sexually explicit images, or critiques of parenting — can invoke prejudicial stereotypes and overshadow legally relevant issues.

The California Supreme Court recently acknowledged these risks in *People v. Collins*, where a mother was convicted of aiding and abetting her boyfriend in the fatal abuse of her child, even though the defendant herself had been subject to abuse by the boyfriend and the fatal act occurred outside of the defendant's presence.[8] Although the conviction was reversed, the Court underscored the dangers of relying on gendered assumptions — such as maternal instinct or intuition — as a basis for criminal liability.[9] It emphasized that "prosecutors and courts must take care to ensure that this type of gender bias does not infect our criminal justice system."[10]

Examples from other California cases illustrate similar concerns. For example, in one case, the prosecution argued that a woman's same-sex attraction provided a motive for sexual abuse — a claim the appellate court later found irrelevant and prejudicial.[11] In another, prosecutors introduced a photo of the defendant lying nude in bed covered with cash to prove the defendant's financial motive for the killing, contributing to a death sentence that was later overturned.[12] In another case, the prosecution highlighted the defendant's masculine clothing and physicality, casting her gender expression as deviant and threatening.[13]

While courts already weigh prejudice against probative value under Evidence Code section 352, the law does not direct them to specifically consider the danger of gender-based stereotyping. By contrast, the Legislature has created heightened admissibility standards for other categories of sensitive evidence. These include:

- **"Rape shield" laws:**[14] Limit the use of a complaining witness's prior sexual conduct in sexual assault cases.[15]
- **Creative expressions:** Require a special balancing test before admitting "creative expressions" (such as rap lyrics) due to the risk of racial bias.[16]
- **Citizenship:** Bars the introduction of a person's citizenship or immigration status without prior judicial review.[17]
- **Condom possession:** Excludes it as evidence in prostitution cases.[18]
- **Character evidence:** Limits the use of prior misconduct to prove conduct on a specific occasion.[19]
- **Jury instructions**: Prohibits the use of the term "unchaste character" in jury instructions in sexual assault prosecutions.[20]

Proposition 8, enacted in 1982, bars laws excluding relevant evidence in criminal cases unless approved by a two-thirds vote in both houses of the Legislature.[21] As a result,

8 *People v. Collins*, 17 Cal.5th 293 (2025).
9 Id. at 318.
10 Id.
11 See *People v. Garcia*, 229 Cal.App.4th 302 (2014).
12 See *People v. Samuels*, 36 Cal.4th 96, 112, fn 2 (2005). See also *Samuels v. Espinoza*, 2020 WL 1140434 (vacating death sentence).
13 The prosecutor also questioned an expert witness on whether homosexuality was a mental disorder listed in the DSM. See People v. Carrington, No. C-29739 Reporter's Transcript on Appeal at 3688, 5683, 6428, 6696 (Cal. Sup. Ct. July 27, 1994).
14 "Complaining witness" generally refers to the alleged victim of the crime charged. See Evidence Code § 782(b).
15 Evidence Code §§ 782, 1103(c). This can include exclusion of evidence of how a complaining witness was dressed at the time of an offense when offered by a defendant to prove consent. Evidence Code § 1103(c).
16 Evidence Code § 352.2.
17 Evidence Code § 351.4.
18 Evidence Code § 782.1.
19 Evidence Code § 1101(a). But see Evidence Code § 1101(b) (allowing such evidence when offered to prove a fact other than a person's disposition to commit a crime, such as motive, intent, or preparation).
20 Penal Code § 1127e.
21 Proposition 8, approved June 8, 1982.

any new Evidence Code provisions limiting gender-biased evidence would likely require a supermajority vote.

California already recognizes, in other contexts, that certain types of evidence require heightened safeguards because of the risk that prejudice, not proof, will determine the verdict. As Professor Sandra Babcock, an expert on gender and the law, whose research has included reviewing hundreds of trial transcripts of women charged in capital cases, explained to the Committee, without explicit rules and guidelines calling attention to gender bias, attorneys and judges will remain "woefully uninformed" about its prevalence and impact.[22] A targeted rule requiring courts to scrutinize evidence for gender bias would help ensure that convictions rest on law and facts, rather than discriminatory assumptions about women's sexuality, appearance, or identity.

EMPIRICAL RESEARCH

At the Committee's April 2025 meeting, Professor Sandra Babcock presented research analyzing transcripts from capital trials of women defendants. Her findings showed that prosecutors often relied on inflammatory depictions of women as promiscuous, immoral, or manipulative, using gender-laden evidence that had little relevance to the charged offense but shaped jury perceptions.[23]

A recent report by the Stanford Criminal Justice Center offers additional confirmation that gender bias frequently plays a role in criminal prosecutions.[24] Researchers surveyed over 600 women incarcerated for murder or manslaughter in California, documenting their experiences with the criminal legal system.[25] More than half of the respondents reported that they were treated unfairly in court due to their gender.[26] Many respondents described how prosecutors used their sexuality, appearance, or perceived failure as mothers against them.[27]

22 Committee on Revision of the Penal Code, Meeting on April 25, 2025, 0:23:34–0:24:07.
23 See Sandra Babcock, *Gendered Capital Punishment*, 31 Wm. & Mary J. Race, Gender Soc. Just. (March 2025).
24 Debbie Mukamal, et al., *Fatal Peril: Unheard Stories from the IPV-to-Prison Pipeline*, Stanford Criminal Justice Center (November 2024).
25 Id.
26 Id. at 129.
27 Id. at 129–132.

2. Allow Habeas Corpus Relief for People Convicted of Failure-to-Protect Murder Under Pre-*Collins* Standards

Allow Habeas Corpus Relief for People Convicted of Failure-to-Protect Murder Under Pre-*Collins* Standards

RECOMMENDATION

The California Supreme Court's recent decision in *People v. Collins* substantially clarified the legal standard that applies when a person is charged with murder based on a failure-to-protect theory. Despite this important development, whether the clarified standard applies retroactively to people already convicted is uncertain.

The Committee therefore recommends the following:

- Amend Penal Code section 1473.5 to authorize habeas relief for individuals convicted of murder under a failure-to-protect theory, where the conviction would likely not be valid under *People v. Collins*.

RELEVANT STATUTES

Penal Code § 1473.5

BACKGROUND AND ANALYSIS

Until the California Supreme Court issued its decision in *People v. Collins* in January 2025, California law applied broad murder liability standards under a "failure to protect" theory that allowed caregivers — most often mothers or survivors of intimate partner violence — to be charged as accomplices to murder when a child died at the hands of another caregiver or abusive parent.[28] Prior to *Collins*, jury instructions in these cases allowed a conviction based on a defendant's general awareness that a child was at risk of harm or had been abused in the past.[29]

In *Collins*, the California Supreme Court reversed the second-degree murder conviction of a mother whose child was killed by the child's abusive father.[30] The Court concluded that failure-to-protect murder requires proof of two elements that were not always established in prior cases:[31]

1. Actual knowledge to a *substantial certainty* that a life-endangering act was occurring or imminent; and

2. A conscious disregard for life in failing to intervene.

The Court's clarification significantly narrowed accomplice liability for murder in these circumstances and underscored that a person's general awareness of danger is insufficient for a murder conviction. However, under current law, whether the *Collins* decision applies retroactively to individuals already convicted under broader failure-to-protect theories is uncertain.[32]

California has previously provided this clarity via statute for significant court decisions involving domestic violence and related intimate-partner violence (IPV) issues. For example, the Legislature enacted Penal Code section 1473.5 in 2002 — and expanded it in 2004 — to provide a targeted post-conviction remedy for people who were unable to present expert testimony on the effects of IPV during their trial.[33] By doing so, it acknowledged that many survivors of intimate partner violence

28 *People v. Collins*, 17 Cal.5th 293 (2025).
29 Id. at 343–345 (dissenting opinion of Chief Justice Guerrero).
30 Id. at 323.
31 Id. at 310.
32 Although new "substantive" rules must apply retroactively, changes deemed "procedural" are generally not given retroactive application, and courts evaluating this question must navigate different federal and state retroactivity standards. See *In re Milton*, 13 Cal.5th 893 (2022). However, where a judicial decision clarifies what conduct is actually prohibited by statute, defendants may be entitled to post-conviction relief. See *People v. Scroggins*, 9 Cal.5th 667, 674 (2025).
33 See Penal Code § 1473.5(a).

were convicted of murder applying legal frameworks that failed to account for the effects of such violence.[34] Extending similar relief to people convicted of failure-to-protect murder under the pre-*Collins* standard follows the same model by offering a mechanism to revisit convictions that no longer reflect current law's view of culpability.

Providing this avenue of relief would not automatically vacate convictions as petitioners would still bear the burden of showing that, under the *Collins* standard, the evidence presented at trial was insufficient to sustain a murder conviction.

EMPIRICAL RESEARCH

While empirical studies of failure-to-protect prosecutions are limited, research indicates that women are disproportionately prosecuted under the theory. In one analysis of court records of incarcerated women in Oklahoma, 90% of people incarcerated for the offense were women.[35] The study further found that attorneys practicing in several states reported that they had never seen a man prosecuted for failing to stop someone else's violence against a child.[36]

Although precise numbers are unknown, the population potentially eligible for relief under *Collins* is small. California currently incarcerates 1,070 women for murder or manslaughter, and only a fraction of those cases are likely to involve failure-to-protect theories. This makes the recommendation narrowly focused and unlikely to create a significant administrative burden for courts or prosecutors while still providing important relief for those people it would reach.

A recent analysis by the California Policy Lab found that people resentenced under felony-murder reform had notably low recidivism rates — only 10% were convicted of a new offense within three years, compared to 42% of all CDCR releases — and most new convictions were misdemeanors.[37]

Tailoring resentencing relief for people convicted under outdated liability theories — especially those who were not directly responsible for the killing — can correct excessive punishment without compromising public safety.

34 See SB 799 (2001–2002 Regular Session). See also SB 1385 (2003–2004 Regular Session).

35 See Samantha Michaels, *She Never Hurt Her Kids. So Why Is A Mother Serving Time Than The Man Who Abused Her Daughter?*, Mother Jones (August 9, 2022).

36 Id.

37 Alissa Skog and Johanna Lacoe, *Felony Murder Reform*, California Policy Lab and The Committee on Revision of the Penal Code (September 2025). Women were disproportionately represented in the resentenced population — while they made up roughly 7% of all prison releases in 2018–19, they accounted for 11% of those resentenced and released under the felony-murder reform. Id.

3. Modernize the Statutory Definition of Self-Defense in IPV Cases

Modernize the Statutory Definition of Self-Defense in IPV Cases

RECOMMENDATION

California's self-defense law was written more than 150 years ago and has not been updated to account for the realities faced by survivors of long-term intimate partner violence (IPV). The rigid requirements for establishing self-defense prevent juries from considering the circumstances of IPV survivors who face ongoing, life-threatening abuse.

The Committee therefore recommends the following:

1. Amend California's self-defense statute to specify that when the defendant is accused of killing their abuser, self-defense is lawful when used to prevent or escape a threat of ongoing, life-threatening, domestic abuse.

2. Revise the "imminence" and "fear alone" requirements so that they are treated as factors for the jury to weigh when assessing self-defense, rather than strict prerequisites to prevailing on the defense.

RELEVANT STATUTES

Penal Code §§ 197, 198
Evidence Code § 1107

BACKGROUND AND ANALYSIS

California's self-defense law, enacted in 1872, reflects 19th-century assumptions of sudden attack and immediate response.[38] However, survivors of IPV often live under an escalating pattern of violence where dangerousness may not coincide with an immediate assault.

For example, a survivor who kills her abuser while his back is turned may be unsuccessful in claiming self-defense because the threat was not deemed "imminent."[39] Courts have said this "imminence" requires a danger "that, from appearances, must be instantly dealt with."[40] A threat such as "I'll probably kill you in the morning" may fail to meet the statutory threshold of imminent danger, despite the survivor's reasonable belief that waiting would be fatal.[41] And even when fear of death is present and reasonable, a survivor's claim of self-defense may be defeated if other motives — such as anger at child abuse or infidelity — are also present.[42]

Although the Legislature enacted Evidence Code section 1107 in 1991 to admit expert testimony on the effects of IPV — and the California Supreme Court affirmed its relevance to self-defense in 1996 — those reforms did not change the underlying statutory definition of self-defense.[43] Survivors remain bound by rigid requirements of "imminence" and "fear alone" that can be impossible to prove given the dynamics of abuse.

Wendy Howard told the Committee of her experience being charged with first-degree murder after shooting her former partner, a man she and her children had repeatedly reported for abuse.[44] After going to trial on the murder charge, a jury was unable

38 *People v. Scoggins*, 37 Cal. 676, 682 (1869). See also *People v. Aris*, 215 Cal.App.3d 1178, 1188 (1989) (quoting *Scoggins* extensively on imminence); *People v. Humphrey*, 13 Cal.4th 1073, 1095 (1996) (quoting *Scoggins* on imminence); *In re Christian S.*, 7 Cal.4th 768, 783 (1994) (quoting *Aris* on imminence); *People v. Thomas*, 14 Cal.5th 327, 386 (2023) (quoting *Christian S.* on imminence).

39 See *People v. Lucas*, 160 Cal.App.2d 305 (1958).

40 *People v. Thomas*, 14 Cal.5th 327, 386 (2023) (cleaned up and emphasis removed).

41 *People v. Aris*, 215 Cal.App.3d 1178 (1989), disapproved on other grounds in *People v. Humphrey*, 13 Cal.4th 1073, 1095 (1996).

42 Penal Code § 198. See also *People v. Trevino*, 200 Cal.App.3d 874 (1988) (explaining that while it would be unreasonable to require an absence of any feeling other than fear, the law requires the person who kills to *act* out of fear alone).

43 AB 1500 (1993–1994 Regular Session); Evidence Code § 1107. See also *People v. Humphrey*, 13 Cal.4th 1073, 1087 (1996).

44 Committee on Revision of the Penal Code, Meeting on April 25, 2025, 0:03:25–0:08:10.

to reach a verdict. Rather than risk a retrial and a possible life sentence, she pled to voluntary manslaughter. Ms. Howard described how, despite years of documented violence, court filings, and medical records, her fear was viewed with skepticism, and expert testimony on trauma was discouraged. Her experience reflects the limits of a law that asks jurors to focus on a single moment of danger rather than the pattern of escalating harm that many survivors confront.

California's self-defense law should be modernized to allow juries to consider the reality of ongoing, life-threatening abuse, rather than requiring an assault to have occurred in the split-second before self-defense is allowed. Other jurisdictions have already taken steps in this direction. As Elizabeth Sheehy, Professor Emerita of Law at the University of Ottawa, explained to the Committee, Canada modernized its self-defense law in 2013, making "imminence" one of several factors in determining whether a survivor's actions were reasonable — not a mandatory prerequisite.[45] Professor Sheehy emphasized that a survivor-centered self-defense law must specify that a threat need not be imminent in the strict sense because waiting for a violent partner to strike first can be fatal.[46]

EMPIRICAL RESEARCH

Nearly half of all female homicide victims are killed by a current or former intimate partner.[47] In California, where the contributing factor was known, domestic violence accounted for roughly 44% of homicides against women.[48] Survivors of IPV are at highest risk of being killed when they attempt to leave or resist their abuser.[49]

A recent study by the Stanford Criminal Justice Center surveyed women incarcerated for murder or manslaughter in California prisons, using validated scales to assess whether they experienced IPV in the year before their conviction, and if so, the severity of the abuse they endured.[50] Among the 625 women surveyed, 74% were assessed as "IPV positive," meaning they had experienced IPV in the year before the murder.[51] Of those, the vast majority were evaluated as being in extreme (66%) or severe (12%) danger of being killed by their partner.[52]

INSIGHTS FROM OTHER JURISDICTIONS

Other jurisdictions have modernized their self-defense laws to address these realities without undermining legitimate limits on the use of deadly force:

- Georgia allows evidence of prior abuse to show that a person's belief in imminent harm was reasonable even if "the actual threat of harm does not immediately precede the homicide," and requires an IPV-specific jury instruction.[53]
- Maryland permits self-defense even when the killing followed some planning or when the defendant was the initial aggressor.[54]
- Oklahoma requires a modified jury instruction in IPV-related self-defense cases that eliminates parts of the "reasonable person" standard and recognizes that survivors may act on the belief of future harm, likening the circumstances IPV survivors face to those of a hostage who acts before a promised future killing.[55]

45 See Canadian Criminal Code § 34(1). See also Elizabeth Sheehy, *Self-defence: Canadian law 1985–2022*, Centre for Women's Justice (2023). The reform built on a 1990 Supreme Court of Canada decision holding that the legal definition of reasonableness must account for the lived circumstances of women facing abuse, explaining that, "If it strains credulity to imagine what the 'ordinary man' would do in the position of a battered spouse, it is probably because men do not typically find themselves in that situation." *R v Lavallee*, 1 SCR 852 (1990).

46 Committee on Revision of the Penal Code, Meeting on April 25, 2025, 0:28:41–0:29:29.

47 Kameron J. Sheats, et al., *Surveillance for Violent Deaths — National Violent Death Reporting System, 39 States, the District of Columbia, and Puerto Rico, 2018*, Morbidity and Mortality Weekly Report, Table 4 (January 28, 2022).

48 California Department of Justice, *Homicide in California 2024*, 31, Table 22 (July 2025).

49 See Debbie Mukamal, et al., *Fatal Peril: Unheard Stories from the IPV-to-Prison Pipeline*, Stanford Criminal Justice Center, 20 (November 2024) (citing studies).

50 Id. at 15–16.

51 Id. at 51.

52 Id. at 53.

53 *Smith v. State*, 268 Ga. 196, 199 (1997).

54 *Porter v. State*, 455 Md. 220, 249 (2017). See also MD CTS & JPRO § 10(b).

55 *Bechtel v. State*, 840 P.2d 1, 11–12 (1992).

- Washington courts have held that "imminent" danger does not require the threat to be immediate in time. The state Supreme Court has explained that an "imminent" threat can arise from circumstances that signal another cycle of abuse, even if the threat occurred days before the killing.[56]

- The Model Penal Code focuses on whether the actor believed the use of force was immediately necessary, not on whether the threat itself was immediate, and makes clear that fear need not be the person's sole motivation.[57]

In addition to laws updating the definition of self-defense, other states have recently begun adopting legal reforms that recognize the unique dynamics of intimate partner violence. Several states, including California and Wisconsin, have enacted "coercion" defenses allowing survivors to avoid criminal penalties when their victimization directly contributed to the offense.[58] Other states, including Georgia, New York, and Oklahoma, have adopted post-conviction vacatur laws allowing survivors to clear arrests or convictions linked to IPV-related coercion, in addition to reforms that allow sentencing courts to impose substantially reduced sentences when IPV was a contributing factor to the offense.[59]

These examples demonstrate that criminal laws can be updated to reflect the lived experience of IPV survivors while maintaining appropriate boundaries that promote public safety.

56 *State v. Jan*es, 121 Wash.2d 220,241–242 (1993). See also *State v. Allery*, 101 Wash.2d 591(1984).
57 Model Penal Code § 3.04(1); MPC Part I Commentaries, vol. 2, 39–40 Comment 2(c). The Model Penal Code, published in 1962 by the American Law Institute, is a proposed set of laws developed by legal experts intended to serve as a model for state legislation.
58 Penal Code §§ 236.2 3(a) & (b), 236.24(a) & (b). See also Wis. St. § 939.46(1m).
59 N.Y. Penal Law §§ 60.12, 70.45; N.Y. Code of Crim. Proc. § 440.47; 22 Okl.St.Ann. §§ 1090.3. 1090.4.

4. Require Countywide Use of Child Advocacy Centers

Require Countywide Use of Child Advocacy Centers

RECOMMENDATION

Child Advocacy Centers (CACs) provide trauma-informed, multidisciplinary services to children who are victims of abuse, exploitation, or maltreatment. Despite their benefits, California law merely authorizes counties to establish CACs and does not require that agencies use them.

The Committee therefore recommends the following:

1. Require each county to establish or participate in a Child Advocacy Center.

2. Require that forensic interviews of children under 18 in cases involving child abuse, sexual abuse, exploitation, or maltreatment be conducted at a CAC.

3. Permit a narrow good cause exception when use of a CAC is not feasible, such as in exigent circumstances or where staffing limitations prevent timely access.

RELEVANT STATUTES

Penal Code § 11166.4

BACKGROUND AND ANALYSIS

Child Advocacy Centers (CACs) are child-focused facilities that deliver trauma-informed, multidisciplinary services to minor victims and witnesses of crime.[60] The trained child advocates at CACs are responsible for responding to and coordinating the investigation, prosecution, and treatment of child abuse while helping children heal.[61] CACs are designed to minimize retraumatization of children during abuse investigations by bringing together law enforcement, child welfare, prosecution, medical, and behavioral health professionals in a single, coordinated, trauma-informed setting.[62] A hallmark of CACs is the use of soft interview rooms — neutral, child-friendly spaces where forensic interviews can occur in a safe environment.[63]

Although current law authorizes counties to create CACs, there is no statutory requirement that they do so, nor any mandate that agencies use them when they exist. As a result, interviews of child victims and witnesses are sometimes conducted in settings that are ill-suited for children, such as police stations or courthouse offices. Requiring counties to establish and use CACs would promote consistent, trauma-informed practices statewide.

Holly Fleming, Program Coordinator for the Children's Advocacy Centers of California, told the Committee that despite having the largest child population in the country, CACs remain unevenly available across the state. She noted that fourteen counties — including Alpine, Colusa, Del Norte, Glenn, Imperial, Inyo, Mendocino, Merced, Nevada, San Benito, Sierra, Siskiyou, Trinity, and Yuba — lack CACs altogether, leaving many children to be interviewed in intimidating or inappropriate environments like police stations.[64] Although state law requires every county to have a multidisciplinary team response to child abuse allegations, it does not mandate the establishment or

60 See Penal Code § 11166.4.
61 Id. See also, Children's Advocacy Centers of California, *What is a Children's Advocacy Center?*
62 Id.
63 Penal Code §§ 1116.4(b)(4), (8).
64 Committee on Revision of the Penal Code, Meeting on October 2, 2025, 0:11:57–0:12:08. According to the Children's Advocacy Centers of California, the following counties currently operate CACs: Alameda, Amador, Butte, Calaveras, Contra Costa, El Dorado, Fresno, Humboldt, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Modoc, Mono, Monterey, Napa, Orange, Placer, Plumas, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Ventura, and Yolo Counties.

use of CACs.[65] As a result, Ms. Fleming described a "patchwork" system in which access to trauma-informed services depends largely on county resources and priorities. Ms. Fleming urged the state to expand CAC availability to ensure all children have access to coordinated, trauma-informed care and forensic interviewing.

The need for stronger support is especially pressing amid an ongoing funding crisis for victim services, which has faced steep declines (nearly 80% since 2018) in federal Victims of Crime Act (VOCA) funding.[66] These cuts have led to staff reductions, program closures, and reduced access to counseling and advocacy services for crime victims.[67]

By establishing a statewide requirement to operate and utilize CACs, California would ensure that all child victims have access to a safe, trauma-informed setting for forensic interviews and services, regardless of local resource disparities.

EMPIRICAL RESEARCH

Research on the effectiveness of CACs is limited and has focused primarily on criminal justice outcomes, such as the number of charges, prosecutions, and convictions, rather than on children's long-term well-being or reductions in trauma.[68] However, some studies have suggested positive outcomes. For example, in one study comparing two districts of a large urban area over ten years, felony prosecutions of child sexual abuse doubled in the district that used CACs, while no increase occurred in the district where CAC use remained constant.[69] Other studies have found that children served at CACs are more likely to receive referrals for specialized medical examinations and mental health treatment than those from communities without CACs.[70]

65 See Penal Code § 11166.4(a).
66 See Hannah Orbach-Mandel, *Supporting Survivors: The Need for Stable Funding for Victim Services*, California Budget & Policy Center (April 2025).
67 See Diana Becton, *Looming Budget Cuts Threaten Critical Victim Services Across California*, The Sacramento Bee (April 11, 2025).
68 See James Herbert and Leah Bromfield, *Evidence for the Efficacy of the Child Advocacy Center Model: A Systematic Review*, Trauma, Violence, & Abuse, 17(3) (2015).
69 See Aaron Miller and David Rubin, *The Contribution of Children's Advocacy Centers to Felony Prosecutions of Child Sexual Abuse*, Child Abuse & Neglect, 33(1) (2009).
70 Wendy Walsh, et al., *Which Sexual Abuse Victims Receive A Forensic Medical Examination? The Impact of Children's Advocacy Centers*, Child Abuse & Neglect, 31(10) (2007). See also, Daniel Smith, et al., *Service Outcomes in Physical and Sexual Abuse Cases: A Comparison of Child Advocacy Center-Based and Standard Services*, Child Maltreatment, 11(4) (2006).

5. Establish a Victim's Right to Be Heard and Notified Regarding Criminal Protective Orders

Establish a Victim's Right to Be Heard and Notified Regarding Criminal Protective Orders

RECOMMENDATION

Criminal Protective Orders (CPOs) are an important tool for ensuring victim safety during and after criminal proceedings. However, existing law does not guarantee that victims will be consulted or notified before such orders are issued or modified. Nor does it provide guidance to courts on how to consider victims' wishes when determining whether to issue, deny, or modify and order.

The Committee therefore recommends the following:

1. Establish a statutory right for victims to be heard before the issuance, modification, or termination of a Criminal Protective Order, including post-conviction orders.

2. Require that victims receive notice when a CPO is issued, modified, or terminated.

3. Direct courts consider factors such as the victim's safety, evidence of coercion or pressure, and input from the prosecution before granting a modification.

RELEVANT STATUTES

Penal Code §§ 136.2, 1203.97
Cal. Const., art. I, § 28 (Marsy's Law)

BACKGROUND AND ANALYSIS

California law authorizes courts to issue Criminal Protective Orders (CPOs) to protect victims and witnesses from harassment, intimidation, or harm during criminal proceedings.[71] CPOs are often a continuation of Emergency Protective Orders, which can be issued ex parte at the request of law enforcement before a criminal case is filed, but typically expire within a few days.[72] In 2023, courts issued over 95,000 criminal protective orders statewide.[73]

Despite their importance, current law provides no guarantees that victims are consulted or notified before such orders are issued or modified. While Marsy's Law provides victims the right "to be heard, upon request, at any proceeding" involving release, plea, sentencing, or post-conviction matters, this provision has not been squarely applied to criminal protective order proceedings.[74] As a result, victims may be unaware of, or excluded from, key decisions that directly affect their safety, autonomy, and ability to communicate with the defendant.

Allison Kephart, Chief Operating Officer of WEAVE — a non-profit organization in Sacramento dedicated to providing services to survivors of domestic violence, sexual assault, and sex trafficking — told the Committee that victims are frequently neither present nor informed when protective orders are issued and may not even receive a copy of the order. She explained that this lack of communication leaves many survivors unaware of the protections available to them and unable to request

71 See Penal Code §§ 136.2, 236.1(j), 273.5(j), 368(l), 646.9(k), 1203.097. The standard for issuing a CPO is a "good cause belief" that harm to, intimidation of, or dissuasion of a victim or witness has occurred or is reasonably likely to occur. In these cases, courts may issue full no-contact orders, other communication restrictions, and in some limited circumstances, direct a law enforcement agency to provide protection to victims or witnesses.

72 Penal Code § 646.91. These orders require a showing of an immediate and present danger of harm and are limited to domestic violence, child abuse or abduction, elder abuse, or stalking allegations.

73 California Department of Justice, Office of Gun Violence Prevention, *Pathways to Safety: California's Nine Court Protection Orders to Prevent Gun Violence*, 73 (June 2024).

74 See Cal. Const. art. I, § 28(8).

modifications if their circumstances change. She urged the establishment of clear processes to ensure victims are notified, consulted, and given meaningful opportunity to participate, emphasizing that doing so would strengthen both safety and justice for those affected by crime.[75]

Establishing a victim's right to be heard and notified in protective order proceedings would help realize the spirit of Marsy's Law by ensuring that victims' voices are not just procedurally acknowledged but substantively considered in decisions that affect safety and autonomy. While courts should have a clear obligation to ensure that any requests for modification are voluntary and not the product of coercion or pressure, establishing the right of victims to be heard regarding the issuance of these orders would bring greater clarity to the Penal Code.

EMPIRICAL RESEARCH

Research has shown that victims of intimate partner violence who perceived higher levels of procedural justice experienced improved mental health and greater likelihood of using the court system again, regardless of the case outcome.[76] Conversely, research has also demonstrated that victims who felt excluded or ignored by the justice system were significantly less likely to seek help or report future abuse.[77]

In a study that specifically examined victims' experiences in relation to criminal protective orders, researchers found victims' perceptions of procedural justice were strongly associated with future willingness to use the system, even when the court did not grant the level of protection requested.[78] Of those who experienced a mismatch between what they requested and what was issued, the majority (80%) received a protective order that was more restrictive than they sought.[79]

75 Committee on Revision of the Penal Code, Meeting on October 2, 2025, 0:03:05–0:03:52, 0:27:47–0:30:16

76 See Jenna Carlton and Lauren Bennett, *The Effects of Procedural and Distributive Justice on Intimate Partner Violence Victims' Mental Health and Likelihood of Future Help-Seeking*, American Journal of Orthopsychiatry, 84(4) (2014).

77 See National Institute of Justice, *Victim Satisfaction with the Criminal Justice System* (January 2006).

78 Samantha Holmes, et al., *Criminal Protection Orders among Women Victims of Intimate Partner Violence: Women's Experiences of Court Decisions, Processes, and Their Willingness to Engage with the System in the Future*, Journal of Interpersonal Violence, 38 (17-18) (September 2002).

79 Id. at 8–9.

6. Ensure Victims in Serious and Violent Cases Are Notified and Have An Opportunity to be Heard Before Acceptance of Plea Agreements

Ensure Victims in Serious and Violent Cases Are Notified and Have An Opportunity to be Heard Before Acceptance of Plea Agreements

RECOMMENDATION

Most criminal cases are resolved with the defendant pleading guilty in return for a specific sentence agreed to by the prosecutor and approved by a court. Under current law, upon request, victims have a right to be notified of and heard at the proceeding where the defendant pleads guilty. But notice to victims and their appearance at guilty plea proceedings can be inconsistently realized in practice.

Therefore, the Committee recommends the following:

1. Before accepting a guilty plea, require courts to inquire of the prosecuting attorney on the record in open court: (1) whether the victim requested to be notified of a plea disposition (2) whether the victim was notified, (3) and whether the victim wishes to be heard regarding the disposition.

2. Apply these procedures only to offenses charged as serious or violent felonies.

RELEVANT STATUTES

Cal. Const., art. I, § 28 (Marsy's Law)
Penal Code §§ 667.5(c), 1192.7(c), 1192.5

BACKGROUND AND ANALYSIS

Under California's constitutional and statutory framework, victims — if they choose to be notified — are entitled to be informed, present, and heard at important stages of a criminal case, including those involving a plea.[80] However, practice across counties, and even cases within the same county, varies widely and victims may not always be able to exercise their right to be heard by the court.

For example, San Luis Obispo District Attorney Dan Dow described to the Committee a recent case in which a victim — a police officer who had been seriously injured while responding to a burglary at a hotel — was not notified before the defendant pleaded guilty to a negotiated sentence.[81] Although prosecutors knew the victim opposed the negotiated sentence, the hearing proceeded without her input simply because the plea occurred unexpectedly, on short notice.[82] DA Dow noted that his office has since implemented a practice of proactively advising the court on the record of a victim's desire to be heard before the defendant enters a change of plea, and he urged that such a practice be adopted statewide.[83]

Inconsistent notice practices can undermine victims' rights and erode confidence in the criminal legal process. When victims learn of plea agreements after they have been accepted, they may perceive that their perspectives were disregarded, even in cases where prosecutors acted in good faith. Ensuring that courts verify victim notification on the record will promote transparency, consistency, and compliance with existing constitutional rights for victims. Importantly, this proposal would not give victims veto power over plea agreements — consistent with current law, decision-making in charging and plea decisions would remain with the prosecutor.[84]

80 Cal. Const., art. I, § 28(a)(8). See also, Penal Code § 1191.1. Current law expressly permits victims to file written, audiotaped, or videotaped statements conveying their views regarding the offense, the defendant, or restitution, and requires courts to consider those statements prior to sentencing. Penal Code § 1191.15.
81 Committee on Revision of the Penal Code, Meeting on October 2, 2025, 0:37:16–0:40:00.
82 Id.
83 Id. at 0:44:02–0:46:18.
84 See *People v. Dix*, 53 Cal.3d. 442 (1991) (prosecutors exercise exclusive discretion over whom to charge, what charges to pursue, and how to conduct the case, and victims lack standing to intervene in those decisions).

Current law also provides sufficient flexibility to deal with those cases where a victim has requested to be but was not notified of the plea, or wishes to be heard but does not appear in court. The Penal Code specifies that a court's acceptance of a guilty plea "is not binding" on the court and can be withdrawn later upon "further consideration of the matter" at the court date set for sentencing.[85] (If a court does withdraw acceptance of a plea, the defendant also has the opportunity to withdraw the plea.) Current law also provides that the parties must be told of the possibility of a court withdrawing acceptance every time a guilty plea is entered.[86] Under this framework, a court is empowered to preliminarily accept a plea but make clear that final acceptance must wait until the victim is heard.

The Committee's recommendation will facilitate victim's voices at guilty plea proceedings by requiring prosecutors to state on the record in open court that the victim is aware of the plea and whether they wish to be heard. Prosecutors will know that these inquiries from the court are forthcoming and this will incentivize regular communication with victims, which is already an important aspect of prosecuting the serious and violent offenses included in this recommendation.

EMPIRICAL RESEARCH

Research consistently shows that victims who feel heard and treated with respect during the court process report higher levels of satisfaction and trust in the system, regardless of the case outcome. As discussed in the Committee's analysis of protective orders, studies on procedural justice in intimate partner violence cases have found that victims' sense of fairness and inclusion — rather than whether they receive their desired outcome — is strongly associated with their willingness to engage with the justice system in the future.

Data from the Judicial Council of California show that the vast majority of convictions in felony cases result from guilty pleas rather than trials — for example in fiscal year 2023–24, for cases charging a felony that resulted in a felony or misdemeanor conviction, 89,436 were resolved with a guilty plea compared to only 2,257 with a trial.[87]

INSIGHTS FROM OTHER JURISDICTIONS

In Texas, before a judge may approve a plea agreement, the court must inquire whether the prosecutors provided notice to the victim of the plea agreement and whether the victim submitted an impact statement.[88] Similarly, in Washington, prosecutors are required to make reasonable efforts to inform victims of violent offenses of the nature and reasons for a plea agreement, to ascertain whether they have any objections or comments they would like to make to the court, and to inform the court of any such comments on the record.[89]

85 Penal Code § 1192.5(c)(2).
86 Penal Code § 1192.5(c).
87 Judicial Council of California, 2025 Court Statistics Report, Statewide Caseload Trends, 2014–15 through 2023–24, 87.
88 TX CRIM PRO Art. 26.13(e).
89 WA ST §§ 9.94A.421, 9.94A.431.

7. Expand Access to Trauma-Informed "Soft Interview" Rooms

Expand Access to Trauma-Informed "Soft Interview" Rooms

RECOMMENDATION

Victims of violent crimes are often interviewed in stark, intimidating settings that can worsen trauma and hinder their ability to recall and describe events. Traditional police and courthouse interview rooms are not designed to promote safety or comfort, which can discourage victims from participating in investigations or sharing critical details.

The Committee therefore recommends the following:

- Establish a dedicated state funding program to support the creation, renovation, and maintenance of soft interview rooms for use by law enforcement, district attorneys, and courts.

RELEVANT STATUTES

Penal Code § 11166.4 (Child Advocacy Centers)

BACKGROUND AND ANALYSIS

Victims of violent crime often face intimidating and retraumatizing environments when they first report abuse or provide statements to investigators. Traditional police interview rooms are typically windowless, brightly lit, and furnished for interrogation rather than care, which can make victims fearful, withdrawn, or unable to recall traumatic details.

Gay Hardwick, co-founder of Phyllis's Garden and survivor of the Golden State Killer, told the Committee that soft interview rooms are essential for supporting victims and improving the quality of investigations.[90] She explained that traditional interview settings can feel cold and punitive, while soft interview rooms — equipped with warm lighting, comfortable seating, blankets, and calming sensory items — create a sense of safety and trust.[91] Victims interviewed in these rooms may be better able to recall details, and be more willing to continue cooperating with investigations, and return to provide additional information, improving both case outcomes and survivor recovery.

Ms. Hardwick noted that Phyllis's Garden has successfully partnered with local agencies to build several such rooms but that access remains inconsistent across counties, especially for adult victims. She estimates that the cost of upgrading an interview room is approximately $4,000.[92]

Expanding trauma-informed spaces statewide would promote equitable access to supportive environments for more survivors.

EMPIRICAL RESEARCH

The U.S. Department of Justice, Community Oriented Policing Services, and the International Association of Chiefs of Police recently released a report recommending trauma-informed victim interviews as a national best practice.[93] The report emphasizes that interview location significantly affects a victim's ability to recall events, avoid retraumatization, and meaningfully participate in an investigation.[94]

90 Committee on Revision of the Penal Code, Meeting on October 2, 2025, 0:04:24–0:09:54.
91 Id.
92 Id. at 0:07:03–0:07:38.
93 Hannah Feeny, et al., *Victim-Centered, Trauma-Informed Practices: An Overview, U.S. Department of Justice*, Office of Community Oriented Policing Services, 5–6 (2025).
94 Id. at 15–16.

It specifically recommends soft interview rooms because they reduce intimidation, increase a victim's sense of safety, and promote more accurate information-sharing.[95]

The U.S. Department of Justice's National Institute of Justice made similar conclusions after conducting a comprehensive review of research on law enforcement interview practices with human trafficking victims.[96] Specifically, the NIJ found that trauma-informed interview environments are essential to obtaining reliable statements, particularly from victims facing ongoing fear, or trauma-related memory impairment.[97] Studies identified soft interview rooms as an emerging best practice, noting that features such as cushioned seating, soft lighting, and the absence of visible weapons help reduce trauma and improve victims' willingness to engage.[98] Although the NIJ noted that rigorous evaluation studies remain limited, the existing evidence consistently supports trauma-informed, victim-centered spaces as more effective than standard police interview rooms for both victim well-being and investigative outcomes.[99]

95 Id.
96 Katherine Hoogesteyn and Travis A. Taniguchi, *Practices for Law Enforcement Interviews of Potential Human Trafficking Victims: A Scoping Review*, U.S. Department of Justice Office of Justice Programs, National Institute of Justice (July 2024).
97 Id. at 19–20.
98 Id.
99 Id. at 28.

8. Improve the Racial Justice Act

Improve the Racial Justice Act

As Governor Newsom recently explained, "racism persists in extraordinary ways" in the United States and can be seen in "who's getting pulled over, who's getting prosecuted and who's not."[100] California's Racial Justice Act, which went into effect in 2021, has immense promise to address this issue in California's criminal justice system by providing that the "state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin."[101]

Expressing a commitment to "eliminate racial bias from California's criminal justice system" and "ensure that race plays no role at all in seeking or obtaining convictions in sentencing,"[102] the Legislature adopted a statutory scheme that eliminates any requirement to show discriminatory purpose, rejecting the standard set by the United States Supreme Court.[103]

There are two broad types of claims permitted by the RJA: language-based claims and statistics-based claims. Statistics-based claims, which require showing a history of racial disparity in charging or sentencing outcomes, have moved slowly, taking months or even years of litigation and appellate intervention.

To date, Committee staff are only aware of 4 cases where a trial court has reached the merits of a statistical claim after an evidentiary hearing.[104] None of these decisions have been reviewed by an appellate court on the merits. These cases are resource-intensive and expensive — only attorneys with prior habeas or appellate experience may be assigned[105] and statistical evidence has almost always required experts to perform analysis for both the prosecution and defense.[106]

While California's RJA is unique in its expansive scope — applying to every type of criminal case — the state is not the first to seek to use courts to address racial bias in the criminal justice system. North Carolina adopted its own Racial Justice Act in 2009, which allowed people sentenced to death to bring forward evidence of the ways racial bias affected their trials or sentences.[107] North Carolina repealed its law in 2013, but it still applies to cases filed while it was in effect.[108] Recently, after a two-week evidentiary hearing where several experts testified to patterns of social, historical, and prosecutorial discrimination, a judge held that racial bias played an impermissible role in jury selection and at the defendant's sentencing.[109] The court noted that the history of racism found in that case affected how the death penalty continues to be applied across the county.[110] The Washington Supreme Court also relied on statistics showing that Black defendants were between 3.5 to 4.6 times more likely to receive a death sentence as non-Black defendants to invalidate its death penalty in 2018."[111]

The following recommendations all aim to streamline the decision of RJA cases by expanding access to data, allowing courts to reach the merits in more cases, and giving courts more power to appoint experts to assist in the resolution of cases.

100 *Higher Learning*, October 10, 2025, 0:27:04–0:28:02.
101 Penal Code § 745(a).
102 AB 2542 (Kalra 2020) § 2(i).
103 The RJA originally applied only to people who were sentenced in the trial court after January 1, 2021. The Racial Justice Act for All Act, signed into law in 2022, applied the RJA retroactively to people sentenced before January 1, 2021, in stages. It began with people sentenced to death becoming eligible on January 1, 2023, and ends with any person with a felony conviction becoming eligible January 1, 2026.
104 Two of these were denied because the courts rejected the expert witness' methodology and faulted the defense for failing to provide examples of people charged differently for similar conduct. *People v. Jenkins*, Orange County Superior Court, No. 17NF0293, April 14, 2025 (oral decision); *People v. Decuir and Mims*, San Francisco County Superior Court, Nos. 17011544 & 17011543, June 12, 2023 (written decision). In the third case, the trial court dismissed the gang special circumstance after the defense presented expert testimony that Black people were almost 44% more likely to be charged with the more serious gang special circumstance rather than only the gang enhancement. Court's Order Re: PC 745(a)(3) Motion, *People v. Windom et al.*, Contra Costa County Superior Court, No. 01001976380, May 23, 2023. The fourth case was denied in October after the judge found the RJA was not violated. *People v. Pree*, Solano County Superior Court, No. F24-01809, October 31, 2025.
105 Cal. Rule of Court 4.553.
106 One report using public records showed that prosecutor offices in at least 15 of 58 counties have entered into contracts with a single consulting firm that, if fulfilled, could cost $6 million to analyze RJA related data. Dan Sutton, Stanford Center for Racial Justice, *Analysis Brief: Data, Disparities, and Discrimination*, April 2025, 8. This number has likely only increased since the study was published in April.
107 *North Carolina v. Robinson*, 375 N.C. 173, 175 (2020).
108 Id.
109 *State v. Bacote*, North Carolina General Court of Justice, Superior Court Division, No. 07 CRS 51499, Feb. 7, 2025, 117-120.
110 Id. at 118.
111 *Washington v. Gregory*, 427 P.3d 621, 634 (2018). The death penalty was formally repealed in 2023. See Equal Justice Initiative, *Washington Abolishes the Death Penalty*, April 26, 2023.

A. Strengthen Appellate Review of RJA Claims

RECOMMENDATION

Generally, appellate court rules hold that a defendant cannot raise a claim on appeal unless it was also raised at trial. The RJA attempted to expand this rule by allowing defendants to raise all claims based on the trial record and to have their cases returned to the trial court to develop RJA claims, but appellate courts have resisted applying these rules.

The Committee therefore recommends the following:

1. Strengthen the presumption in the RJA that appellate courts should consider on the merits all RJA issues based on the trial record, even if the claim did not follow the strict rules around preservation.

2. Amend the existing stay-and-remand procedure to be mandatory upon a defendant's request that a plausible RJA claim needs further development.

RELEVANT STATUTES

Penal Code § 745(b)

BACKGROUND AND ANALYSIS

Many Racial Justice Act claims are evident from a trial transcript. This is because the RJA allows relief if during trial a judge, attorney, law enforcement officer, expert witness or juror "used racially discriminatory language about the defendant's race, ethnicity, or national origin, or otherwise exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin, whether or not purposeful."[112]

Because these claims necessarily turn on statements made during a trial and reflected in a transcript, appellate courts are well-suited to consider them. In 2023, the RJA was amended to recognize this dynamic and specified that "[f]or claims based on the trial record, a defendant may raise a claim alleging a violation of [the Racial Justice Act] on direct appeal from the conviction or sentence. The defendant may also move to stay the appeal and request remand to the superior court to file a motion pursuant to this section."[113]

But appellate courts have narrowly interpreted these two changes to appellate procedure.

First, courts have prevented defendants from raising an RJA issue on appeal if the claim was not also made in the trial court.[114] This interpretation is difficult to square with the 2023 amendments to the RJA because requiring preservation in the trial court was the very rule that was amended.

Second, the California Supreme Court has similarly denied requests to "stay and remand" RJA claims in death penalty appeals. The RJA was amended so that a person "may" request a stay and remand to pause their direct appeal and return to the trial

112 Penal Code § 745(a)(1).
113 Penal Code § 745(b).
114 *People v. Wagstaff*, 111 Cal.App.5th 1207 (2025) (Attorney General conceded RJA violation but court still found forfeiture); *People v. Quintero*, 107 Cal.App.5th 1060, 1075–1079 (2024) (finding (a)(2) claim forfeited because trial counsel did not object to the prosecutor's language during closing argument); *People v. Singh*, 103 Cal.App.5th 76, 116 (2024); *People v. Lashon*, 98 Cal.App.5th 804, 816 (2024).

court to develop RJA claims.[115] The direct appeal would resume once the additional trial court proceedings had concluded. However, the California Supreme Court held that an appellate court may only order a stay and remand for "good cause" that warrants a departure from the usual appellate process and that death-sentenced defendants could always pursue a habeas proceeding (with separately-appointed counsel) simultaneously with the direct appeal.[116]

These limitations of the stay and remand procedure are particularly acute for death penalty appeals, where trials in most cases on appeal occurred before the RJA was enacted. Death penalty cases have well-documented delays and issues with appointing counsel, particularly habeas counsel, and pausing a direct appeal to develop claims and quickly returning to the appellate process can more efficiently resolve issues.[117] A yearslong delay may result in lost witnesses, evidence, or court records, in addition to delaying relief for a death sentence imposed in violation of the Racial Justice Act.[118] Two members of the California Supreme Court, Justices Kelli Evans and Goodwin Liu, have urged the Legislature to "address the injustices and inefficiencies" created by the California Supreme Court's interpretation of the "stay and remand" procedure in the RJA.[119]

The Committee recommends restoring, with clear language, these two changes to appellate procedure for RJA cases. Doing so would be consistent with the Legislature's goal in enacting the RJA of "actively work[ing] to eradicate" racial disparities.[120]

115 Penal Code § 745(b).
116 *People v. Wilson*, 16 Cal.5th 874, 943–963 (2024). See also *People v. Lashon*, 98 Cal.App.5th 804, 817 (2024).
117 *Wilson*, 16 Cal.5th at 969–976 (Evans, J. dissenting).
118 *People v. Frazier*, 16 Cal.5th 814, 866 (Evans, J. dissenting).
119 *Wilson*, 16 Cal.5th at 978 (Evans, J. dissenting).
120 Assem. Bill No. 2542 (2019-2020 Reg. Sess.) § 2(i).

B. Improve Data Access to Support RJA Claims

RECOMMENDATION

In 2023, the Committee recommended a variety of ways to improve access to data relevant to RJA claims, including expanding reports already produced by the California Department of Corrections, Department of Justice, and Judicial Council.

The need for this data access remains. The Committee therefore recommends the following:

1. Expand the detail and format of existing reports by the California Department of Corrections and Rehabilitation, Judicial Council, and the California Department of Justice.

2. Amend current law to increase access to probation and police reports if the request is related to a Racial Justice Act claim.

3. Fund the Justice Data Accountability and Transparency Act to support the collection and publication of data from prosecutors.

RELEVANT STATUTES

Penal Code §§ 745; 1170.45; 1203; 1203.5; 11370
Government Code §§ 7923.600–7923.630

BACKGROUND AND ANALYSIS

In 2023, the Committee recommended a variety of ways to improve access to data relevant to RJA claims, including expanding reports already produced by the California Department of Corrections, Department of Justice, and Judicial Council. Though a bill in 2024 (AB 2065 Kalra) would have implemented many of these improvements, the bill was held in the Assembly Appropriations Committee.

The need for data remains and the Committee's 2023 recommendations remain important. Courts have not resolved what kind or how much data is necessary to make an initial showing under the RJA, but it is clear that some data is required to both obtain discovery, i.e. access to more specific data, and establish a prima facie case.[121] Yet defendants are often denied for lack of the very data they seek. As California Supreme Court Justices Goodwin Liu and Kelli Evans have pointed out, while citing the Committee's 2023 Annual Report, "state and county agencies are not making available the data that are required to show an RJA violation."[122] Additionally, Contra Costa County Chief Assistant District Attorney Simon O'Connell told the Committee that public defenders and prosecutors have "common ground" in improving access to data.[123]

For a fuller explanation of the specific recommendations to data access, refer to the Committee's 2023 Annual Report. Expanding access to data would benefit defendants, prosecutors, courts, and the public generally by helping ensure claims are resolved efficiently and meaningfully.

121 The leading case to consider the issue noted repeatedly that "there is nothing in the plain meaning of the [RJA] that provides what evidence is necessary to establish a prime facie case." *Mosby v. Superior Court*, 99 Cal.App.5th 106, 127 (2024).
122 *In re Mendoza*, S287251, December 18, 2024 (dissenting statement by Justice Liu).
123 Committee on Revision of the Penal Code, Meeting on July 23, 2025, Part 2 of 3, 0:06:44–0:06:57.

C. Clarify that the RJA Applies to Enhancements

RECOMMENDATION

An RJA violation is shown if a defendant was "charged or convicted of a more serious offense" than defendants of other races who engaged in similar conduct or received a harsher sentence than "similarly situated individuals convicted of the same offense."[124] While the Legislature intended that this language applied to enhancements, special circumstances, and any other alternate sentencing schemes, one appellate court held that it does not.

The Committee therefore recommends the following:

- The RJA should be amended to clarify that it applies to enhancements, special circumstances, and any other alternate sentencing schemes.

RELEVANT STATUTES

Penal Code § 745(a)(3) & (4)

BACKGROUND AND ANALYSIS

One appellate court recently held that "the charging and sentencing of gang enhancements ... do not fall within the scope of" subdivision (a)(3) or (a)(4) of the RJA because the term "offense" in these subdivisions does not refer to sentencing enhancements.[125] The California Supreme Court subsequently vacated the decision and ordered the court to reconsider its decision.[126]

While other courts have impliedly accepted that gang enhancements do fall within the RJA,[127] this outlier decision should nonetheless be addressed so that other courts do not repeat its faulty analysis. Under the appellate court's logic, enhancements, special circumstances, and strike offenses might, in some circumstances, not form the basis of a RJA claim, which would directly conflict with the Legislature's goal in enacting the RJA, which was "to ensure that race plays no role at all in seeking or obtaining convictions or in sentencing."[128]

124 Penal Code § 745(a)(3) &. (4).
125 *In re Huerta*, 335 Cal. Rptr. 3d 215 (2025), review granted and cause transferred, 2025 WL 3032304 (Oct. 29, 2025).
126 *In re Huerta*, 2025 WL 3032304, at *1 (Cal. Oct. 29, 2025).
127 The First District Court of Appeal implicitly held that gang enhancements do fall within the RJA when it held the defendant had a right to discovery on his RJA claim alleging the district attorney more frequently charged gang enhancements against Black defendants. See *McDaniel v. Superior Court*, 332 Cal.Rptr.3d 667 (2025). And the California Supreme Court has issued orders to show cause about appointment of counsel in RJA cases involving sentencing enhancements or special circumstances. See e.g. *In re Delariva*, Cal. Supreme Court Case No. S286304 (August 20, 2025) (special circumstances); *In re Phillips*, Cal. Supreme Court Case No. S286417 (September 3, 2025) (firearm enhancements).
128 AB 2542 (2019-2020 Reg. Sess.) § 2(i).

D. Expand a Court's Power to Appoint Referees in RJA Cases

RECOMMENDATION

RJA claims can be labor and knowledge intensive, often involving substantial discovery or complex statistics. The RJA allows a court to appoint an "independent expert" to assist the judge, but only at an evidentiary hearing. In many other areas of legal practice, California law allows judges to appoint a referee at any stage of the case. Allowing judges to do so in RJA cases would support efficient and fair resolution for all parties.

The Committee therefore recommends:

- Amend the RJA to allow judges to appoint a referee (or multiple, if necessary) in RJA cases at any stage of the case. The referee should have particular knowledge or experience that can provide the court with guidance on statistical analysis, available data, or discovery.

RELEVANT STATUTES

Penal Code § 745(c)(1)

BACKGROUND AND ANALYSIS

Referees, or special masters as they are called in other jurisdictions, often have specific and relevant expertise to help the court and parties manage the information at issue in the case. California civil law allows courts to appoint a referee, by party agreement or at their discretion, in certain circumstances.[129] Courts appoint referees primarily to manage complex discovery or to ensure the implementation of court orders.[130] They have been used in family law cases and civil cases that involve large amounts of technical, financial, scientific, or other complex data.[131]

The RJA currently authorizes courts to appoint independent experts at evidentiary hearings, but not at the earlier stages of an RJA claim.[132] Committee staff is unaware of any case where an expert has been appointed to assist the court. Yet as Judge (Ret.) Richard Couzens explained to the Committee, "judges are not statisticians, and we don't understand that process."[133]

Existing language in the RJA should be expanded to allow a court to appoint a referee to resolve discrete matters, such as discovery, to advise the court on the statistical data — including at the prime facie stage of a case and not just at the evidentiary hearing — or any other circumstance that the court believes is necessary for fair and efficient adjudication of RJA claims.

INSIGHTS FROM OTHER JURISDICTIONS

In the 1990s the New Jersey Supreme Court appointed two special masters to investigate a claim of racial disparity in death sentencing.[134] The court consolidated all capital cases raising race discrimination cases while the special masters investigated claims and reviewed data. The special master made a series of recommendations, which the court adopted, creating a new system for proportionality review and ongoing data collection.[135]

129 Code of Civil Procedure §§ 638 (upon agreement of parties); 639 (on the court's own motion).
130 Code of Civil Procedure § 639(a)(5) ("When the court in any pending action determines that it is necessary for the court to appoint a referee to hear and determine any and all discovery motions and disputes relevant to discovery in the action and to report findings and make a recommendation thereon.").
131 American Bar Association Guidelines for the Appointment and Use of Special Masters in Federal and State Civil Litigation, 1–2 (January 2019)..
132 Penal Code § 745(c)(1).
133 Committee on Revision of the Penal Code, Meeting on July 23, 2025, Part 2 of 3, 0:41:51–0:41:58.
134 Brandon L. Garrett, *Aggregation in Criminal Law*, 95 Cal. Law Review 383, 421 (2007); *In re Proportionality Review Project (II)*, 165 N.J. 206 (N.J. 2000).
135 Id. at 421; *In re Proportionality Review Project (II)*, 165 N.J. 206 (N.J. 2000).

9. Limit Prosecutor Blanket Challenges of Judges Under Code of Civil Procedure § 170.6

Limit Prosecutor Blanket Challenges of Judges Under Code of Civil Procedure § 170.6

RECOMMENDATION

California law allows an attorney to disqualify any judge by asserting that the judge is "prejudiced against a party or attorney" without requiring any supporting facts. This process can be abused when a prosecutor's office systematically challenges a judge so that they can no longer preside over criminal cases.[136] As appellate courts have recognized, it is particularly dangerous where abuse of the rule is an attempt to "intimidate, punish, and/or silence" a judge and send a warning to other judges.[137] Yet existing California law allows these "blanket" disqualifications without giving judges a way to respond.

The Committee therefore recommends the following:

When a prosecutor's office files blanket challenges, the following procedure applies:

1. A blanket challenge is defined as repeated disqualifications under Code of Civil Procedure § 170.6 that prevent a judge from hearing substantially all criminal cases or a particular type of case or recurring docket, such as arraignments, mental health court, or domestic violence cases.

2. The challenged judge or Presiding Judge may request a hearing that will be determined by a judge from another county.

3. At the hearing, the prosecutor must establish a reasonable good faith belief, through particularized facts, that the judge is prejudiced against the prosecutor's office or their interest. A reasonable good faith belief cannot be based on the judge's membership in any part of the categories specified in Code of Civil Procedure § 231.7(a), which includes race, ethnicity, gender, and sexual orientation.

RELEVANT STATUTES

Code of Civil Procedure § 170.6

BACKGROUND AND ANALYSIS

Code of Civil Procedure § 170.6 allows an attorney to disqualify any judge if the attorney alleges that the judge is "prejudiced against a party or attorney."[138] To make these allegations, an attorney needs only to note the disqualification orally under oath or file a boilerplate motion prescribed in the statute.[139] No supporting facts or other material is required — except that the attorney must swear under oath that the attorney "believes that he or she cannot[] have a fair and impartial trial or hearing before the judge, court commissioner, or referee."[140]

While 170.6 challenges are generally exercised on a case-specific basis, a public agency such as a prosecutor's office or public defender can use 170.6 challenges systematically against a judge so that the judge can no longer hear a particular type of case, such as domestic violence prosecutions, or any criminal cases. In 1977, the California Supreme Court upheld the use of blanket challenges in *Solberg v. Superior Court*. Though the

136 See, e.g., *People v. Superior Court (Tejeda)*, 1 Cal.App.5th 892, 905 (2016).
137 Id. at 910.
138 Code of Civil Procedure § 170.6(a)(2).
139 Code of Civil Procedure § 170.6(a)(4).
140 Code of Civil Procedure § 170.6(a)(2).

Court said that it "strongly disapproved" of blanket challenges and accepted that they lead to "judge-shopping" and the intimidation of judges, these were "a relatively inconsequential price to be paid for the efficient and discreet procedure provided in section 170.6."[141]

In the decades following *Solberg*, appellate courts have questioned its holding.[142] The California Supreme Court recently agreed to revisit *Solberg* in a case where the San Joaquin County Counsel's Office, representing the Public Conservator, blanket disqualified a judge for all mental health cases.[143]

Yolo County Superior Court Judge Daniel Maguire explained to the Committee the consequences of a blanket challenge to one of four criminal court judges in the county: "Instead of four criminal judges, I essentially had three for a period of time, which was a 25% reduction in our ability to handle cases. And it was very, very difficult."[144] The challenge "overburdens already overburdened staff and judges. It is disruptive and causes chaos."[145] Judge Maguire also conducted an informal survey of presiding judges throughout the state on blanket challenges. While many courts do not keep this data, and several presiding judges did not respond, the survey showed that both prosecutors and defense attorneys make significant use of blanket disqualifications, with prosecutors and county counsel using them slightly more often.

Blanket challenges from either party may affect the administration of justice but a prosecutorial challenge is particularly disruptive to court process and judicial independence. When a prosecutor's office challenges a judge on every case, the judge is effectively prevented from hearing any criminal case and the courthouse loses a judge who can decide cases, resulting in an increased caseload for the remaining judges and a backlog of cases.[146] As Alameda County Deputy Public Defender Kathleen Guneratne noted at the meeting, public defender challenges are different since only a little more than half of counties have a dedicated public defender office and those offices represent 85–90% of the criminal cases in a conuty.[147] Court officials have no recourse — judges are prevented from commenting on the challenge by ethical rules[148] — and almost always reassign the judge to a different department or courthouse.[149]

While individual case-based automatic disqualifications under Code of Civil Procedure § 170.6 should still be permitted, blanket challenges can be limited by a process that allows challenged judges to require the party bringing a blanket challenge to set forth specific facts. A judge from another county will then determine whether those facts establish a reasonable good faith that the judge is prejudiced against the party. In addition, the Presiding Judge of each Superior Court should also have the ability to trigger this review of a blanket challenge because they may have a better sense of how a blanket challenge will impede the administration of justice. Rulings on blanket challenges should be immediately appealable.

Because blanket challenges from a prosecutor are particularly disruptive to the administration of justice, the Committee recommends this new procedure only apply to prosecutors. However, the Committee also supports following the best practices of other states, such as Oregon, that have limited blanket challenges for all parties while still allowing them to make individual case-based automatic disqualifications.

141 *Solberg v. Superior Court*, 19 Cal.3d 182, 195, 204 (1977).
142 See *NutraGenetics, LLC v. Superior Ct.*, 179 Cal. App. 4th 243, 260 (2009); *People v. Superior Court (Tejeda)*, 1 Cal.App.5th 892, 903, 907–911 (2016) (noting that most of *Solberg* appeared to be dicta and urging the California Supreme Court to revisit the case).
143 *J.O. v. Superior Court (San Joaquin County Public Conservator)*, Supreme Court No. S287285, review granted December 18, 2024.
144 Committee on Revision of the Penal Code, Meeting on May 23, 2025, 0:07:12–0:07:26.
145 Id. at 0:09:53–0:09:57.
146 Sarah Park, *Note: Perfecting the Judicial Peremptory Challenge: A New Approach Using Preliminary Data on California Judges in 2021*, 97 Southern California Law Review 253, 284 (2024); Jennifer Simpson, *Automatic Judicial Disqualification Under Idaho Criminal Rule 25(A): A Necessary Lawyering Tool or Potential Nuclear Weapon?*, 43 Idaho Law Review 239 (2006).
147 Committee on Revision of the Penal Code, Meeting on May 23, 2025, 0:15:53–0:16:17.
148 See, e.g., California Code of Judicial Ethics, Canon 3B(9) (largely forbidding public comments on pending cases).
149 See e.g. Kimberly Wear, *Court Challenge: DA Issues "Blanket Disqualification" of Local Judge in Long Controversial Practice*, March 14, 2024, North Coast Journal of Politics, People & Art; Eleni Balakrishnan, *DA Jenkins' Prosecutors Challenge S.F. Judge En Masse Before She's Heard a Single Case*, March 4, 2025, Mission Local.

INSIGHTS FROM OTHER JURISDICTIONS

Most states do not allow parties to disqualify a judge without presenting compelling reasons for why the judge cannot be impartial. California is in a shrinking minority of states that permit this practice — currently only 5 other states allow blanket challenges while 8 other states have prohibited or limited blanket challenges.[150]

For example, in 2023, Oregon amended its law to allow a judge to challenge a party that files motions to disqualify that "effectively denies the judge assignment to a criminal or juvenile delinquency docket."[151] Under Oregon law, a challenged judge may request a hearing if the agency's challenge effectively denies the judge an assignment. Like California, parties maintain the statutory right for individual automatic challenges.

Three states — Illinois, Minnesota, and Wisconsin — currently have restrictions on blanket challenges that apply only to prosecutors.[152] In Wisconsin, only the defendant may substitute a judge by statute.[153] California's original version of this law from 1937 also did not allow prosecutors to use it[154] and the California Supreme Court recently ordered briefing in a pending case about whether any limitations on blanket challenges should only be applied to prosecutors and other executive branch offices.[155]

150 Alaska Rule of Crim. Proc. 25 & Alaska Stat. § 22.20.022; Missouri Rule of Crim. Proc. 32.07; N.D. Cent. Code § 29-15-21; South Dakota Codified Laws § 15-12-22; Washington Rev. Code Ann. § 4.12.040-4.12.050.
151 See Oregon SB 807 (2023 Regular Session) (creating Oregon Rev. Stat. § 14.260(7)).
152 *State v. Erickson*, 589 N.W.2d 481, 485 (1999) (Minnesota); *People ex rel. Baricevic v. Wharton*, 136 Ill.2d 423, 437 (1990) (Illinois).
153 Wisconsin Stat. § 971.20(2).
154 *Austin v. Lambert*, 11 Cal.2d 73, 74–75 (1938).
155 *J.O. v. Superior Court*, Cal. Supreme Court Case No. S287284 (order of September 24, 2025).

10. Modify the Serious and Violent Felony Lists

Modify the Serious and Violent Felony Lists

RECOMMENDATION

California's serious and violent felony classifications were originally designed to identify a narrow set of the most egregious offenses that triggered additional punishment for multiple violations. Over time, however, successive legislative and voter initiatives have dramatically expanded these lists, increasing punishment across a wide range of conduct while diminishing the distinctions between truly violent crimes and less severe offenses.

The Committee therefore recommends the following:

Remove the following offenses:

1. Robbery from the serious and violent felony lists when the offense involves only fear or minimal force, unless committed against a particularly vulnerable victim. Require prosecutors to plead and prove that a robbery qualifies as a strike by establishing that the offense involved a weapon, the infliction of great bodily injury, or was committed against a particularly vulnerable person. Any robbery meeting these criteria would remain a violent felony.

2. Criminal threats from the serious felony list.

3. Grand theft involving a firearm from the serious felony list.

Add the following offenses:

1. Sexual assault offenses: add to the violent felony list the parallel subdivisions of the rape, sodomy, oral copulation, and sexual penetration statutes that punish acts where the victim is unconscious, lacks capacity to consent due to disability, is intoxicated, or where consent is obtained by impersonation or by threats to misuse official authority.

2. Retaliation or threats of retaliation against victims or witnesses to the serious felony list.

3. Abduction of a minor for purposes of prostitution to the serious felony list.

RELEVANT STATUTES

Penal Code §§ 667.5(c), 1192.7(c), 140, 211, 267, 286, 287, 288, 289, 422, 487(d)(2)

BACKGROUND AND ANALYSIS

California's serious and violent felony laws, first enacted in the 1970s and 1980s, began as targeted sentence enhancements for people with prior convictions for a small number of particularly grave crimes.[156] The original violent felony list contained 9 categories and the serious felony list had 26.[157] Today, the violent list has 25 categories and the serious list44. (A complete timeline of changes to the lists is in Appendix B.) The violent felony list was intended to reflect the Legislature's judgment that such offenses merited "special consideration ... to

156 See Penal Code § 667.5(a), as enacted in Stats. 1976, Ch. 1139, Sec. 268. See also *People v. Jones*, 5 Cal.4th 1142, 1147 (1993); Proposition 8 (1982).
157 Id.

display society's condemnation for extraordinary crimes of violence,"[158] and the serious felony list would "ensure swift and certain justice for criminals."[159]

Over time, these classifications have expanded to cover dozens of additional offenses, largely through legislation and ballot measures promoted as "victims' rights" reforms.[160] Yet, as the Committee heard from Jess and Annie Nichol — sisters of Polly Klass, who was murdered in 1993 and whose case became a focal point of punitive legislation — many such expansions have not delivered the kind of support or healing that victims and their families need.[161] Instead, the resulting laws have produced sweeping sentencing enhancements that often fail to reflect the seriousness of the underlying conduct.[162] And, as outlined in Appendix C, convictions for these offenses also trigger dozens of other consequences, including exclusion from automatic record expungement, restricted access to professional licenses and employment, and negative effects in family and dependency court. Including an offense on this list does not, without more, immediately increase punishment for the offense.

The most significant expansion of the consequences of a conviction for a serious or violent offense was the creation of the Three Strikes Law in 1994. This law, which was a response to several high-profile violent crimes committed by individuals with prior criminal convictions, used the existing serious and violent felony lists to determine which convictions counted as "strikes" that increased future punishment.[163]

While the Committee has previously recommended abolishing the Three Strikes Law altogether,[164] such a change appears unlikely in the near term. Given that the strike framework will continue to operate, the Committee recommends changes to restore rationality and proportionality to its application by narrowing the lists and ensuring consistency across comparable offenses. Consistent with past Committee recommendations, deletions from the strike lists should apply retroactively, allowing people with prior strike convictions to petition the court for resentencing when the prior conviction would no longer qualify as a strike under the revised lists.

Robbery

All robberies have been classified as a serious felony since Proposition 8 (1982) and as a violent felony since Proposition 21 (2000), which broadened the violent offense definition from aggravated home-invasion with a weapon type robberies to all robberies.[165] Case law has applied an expansion definition of "force or fear," allowing even brief physical contact during a theft — such as a shoplifter brushing past a store clerk or making a verbal threat while leaving with stolen merchandise — to elevate the conduct to a violent strike offense.[166]

The Committee recommends retaining strike status for robberies involving actual violence or dangerousness — including those in which a weapon is used, great bodily injury is caused, or particularly vulnerable victims are targeted — while eliminating automatic strike classification for robberies based solely on fear or minimal force. Prosecutors would be required to plead and prove the qualifying facts when alleging a strike.

Criminal Threats

The wobbler offense of criminal threats — an offense that involves no physical contact or injury and only requires that a victim be placed in "sustained fear" — is always classified as

158 Penal Code § 667.5(c).
159 See Voter Information Guide for 1982, Primary (1982).
160 See Voter Information Guide for 1994, General Election (1994), *Argument in Favor of Proposition 184*, 36. See also Voter Information Guide for 2000, Primary (1994), *Argument in Favor of Proposition 21*; Voter Information Guide for 2008, General Election (2008), *Argument in Favor of Proposition 9*.
161 Committee on Revision of the Penal Code, Meeting on October 2, 2025, 0:13:47–0:19:13.
162 Id.
163 Proposition 184 (1994). See also Voter Information Guide for 1994, General Election (1994); AB 971 (1994); Dan Morain *California Elections: Proposition 184: 'Three Strikes': A Steamroller Driven By One Man's Pain*, Los Angeles Times (October 17, 1994).
164 Committee on Revision of the Penal Code, *2021 Annual Report and Recommendations*, 40 (December 2021).
165 Proposition 8 (1982); Proposition 21 (2000).
166 See *People v. Estes*, 147 Cal.App.3d 24 (1983). See also *People v. Garcia*, 45 Cal.App.4th 1242 (1996) (robbery conviction upheld where defendant gave the cashier a slight push to move her aside before taking money from the open register); *People v. Cortez*, 2023 WL 3402935 (robbery conviction sustained even though defendant did not take the merchandise herself, believed her companion had paid after seeing money placed on the counter, and the only force was stepping between and lightly pushing the store manager); *People v. Guevara*, 2021 WL 5997248 (robbery conviction upheld where items worth only $40–50 were taken and the only force was threats causing the store employee to step aside); *In re G.G.*, 2025 WL 914127 (robbery conviction of a juvenile sustained where three youths stole a single bag of chips, G.G. was not the one who took the chips, and no physical force was used, only the display of a waistband as if armed, though no gun was found).

a serious offense when it is a felony, even though the same conduct can be charged as a misdemeanor at the prosecutor's discretion.[167]

While criminal threats can be harmful, and the law should continue to allow felony charging when appropriate, placing all criminal threats on the serious list is overinclusive. It punishes speech and encompasses statements that are conditional or ambiguous.[168] For example, an appellate court upheld a criminal threats conviction where a defendant, a student acting erratically and speaking gibberish, told a classmate he "needed to end" two of his peers.[169] Courts have also upheld convictions even when the victim's fear was momentary.[170] Automatically classifying every felony threat as serious overstates that harm relative to other crimes involving physical injury or death.

Grand Theft of a Firearm
In 1989, the Legislature added "grand theft involving a firearm" to the list of serious offenses. Courts have interpreted this language to include not just thefts where a gun was used — which would also be robberies — but thefts where a gun was the object stolen.[171] Conduct involving actual violence is already captured by robbery or armed-enhancement statutes, making this offense's classification as a strike of little public safety value.

To bring consistency and rationality to the existing framework, the Committee recommends three targeted additions:

Sexual Assault
While "rape" qualifies as a serious felony, not all forms of rape are included in the violent felony list. The violent list currently only includes rape accomplished by force or threat, rape in concert, and rape of an intoxicated person, but excludes conduct such as rape of an unconscious person.[172] Other serious harms, such as sexual penetration or sodomy of an unconscious or intoxicated person, are also omitted from the lists.[173] To address these inconsistencies, the violent felony list should be expanded to include subdivisions of the rape, sodomy, oral copulation, and sexual penetration statutes that criminalize acts where the victim is unconscious, incapacitated due to disability, intoxicated, or where consent is obtained through impersonation or threats to misuse official authority. This corrects current inconsistencies so that comparable forcible or coercive acts are treated equally.

Retaliation Against Victims or Witnesses
Violent retaliation against victims or witnesses undermines the justice system. However, Penal Code section 140, which criminalizes violent retaliation or threats of retaliation against victims or witnesses, is not a strike offense even though Penal Code section 136.1, which punishes intimidation of victims or witnesses, is a serious offense and violent if gang-related.[174]

Abducting a Minor
Abducting a minor for purposes of prostitution is a profoundly serious exploitation that should be treated accordingly.[175] Classifying this offense as serious reflects its gravity and aligns it with analogous harms already on the list, such as human trafficking of a minor and kidnapping.[176]

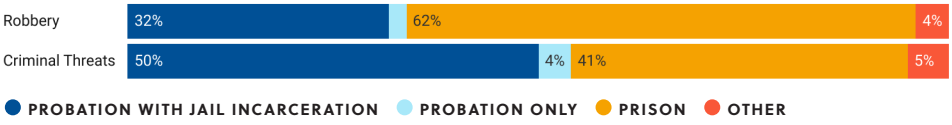
167 Penal Code §§ 422, 1192.7(c)(38). See also, *People v. Solis*, 90 Cal. App.4th 1002, 1024 (2001).
168 See, e.g., *People v. Butler*, 85 Cal.App.4th 745 (2000).
169 *People v. Choi*, 59 Cal.App.5th 753 (2021).
170 *People v. Fierro*, 180 Cal.App.4th 1342, 1349 (2010).
171 *People v. Rodola*, 66 Cal.App. 4th 1505, 1508 (1998). See also *People v. Anderson*, 2010 WL 5142196, *5 ("Grand theft of a firearm is a serious felony and a strike offense under California law.").
172 See Penal Code §§ 261, 667.5(c)(3), (18), (24), 1192.7(c)(3).
173 See Penal Code §§ 267, 289, 667.5(c), 1192.7(c).
174 See Penal Code §§ 136.1, 140, 667.5(c)(20), 1192.7(c)(37).
175 Penal Code § 267.
176 See Penal Code § 1192.7(c)(20), (42).

The Committee's recommendation reflects a balanced approach that modestly expands the lists in limited areas while also narrowing them where current classifications sweep too broadly. Implementing only the additions without the corresponding removals would be a departure from the Committee's recommendation and undermine the proportionality it seeks to restore.

EMPIRICAL RESEARCH

Data analyzed by the California Policy Lab show that between 2014 and 2024, felony convictions for criminal threats made up more than 10% of admissions to prison and convictions for robbery made up almost a third of all admissions for violent offenses.[177] However, the data also show that convictions for these offenses frequently result in probation — including roughly one-third of robbery convictions and nearly half of felony criminal threats convictions.[178] These patterns show that courts and prosecutors often view many of these cases as less serious or dangerous than their strike classification suggests.

SENTENCE TYPE FOR ROBBERY AND CRIMINAL THREATS CONVICTIONS, 2014–2023



Source: California Department of Justice Automated Criminal History System. Data is for convictions where robbery or criminal threats was the controlling offense. Robbery includes first and second degree robbery and carjacking.

Empirical research shows that California's Three Strikes Law has produced minimal long-term effects on crime, while contributing to severe and unequal punishment. A 2022 report from the California Policy Lab found that increasing sentence severity through the Three Strikes framework did not meaningfully reduce crime.[179] While crime rates declined in California after the passage of the Three Strikes Law, the declines mirrored nationwide trends, including in states that did not implement similar laws, suggesting little or no causal or deterrent effect.[180] Other research on the impact of Proposition 47 — which scaled back punishment for certain theft and drug offenses — indicated a narrowing of racial disparities in convictions and incarceration after the law was passed, driven in part by lesser weight placed on a person's criminal history.[181]

A recent analysis of Proposition 36 (2012) resentencing — which restricted 25-year-to-life sentences under the Three Strikes Law to cases in which the third felony was also serious or violent — found that of the more than 2,200 people resentenced and released under the law, only 25% were reconvicted within three years, compared to 42% among the general release population.[182] Nearly two-third of new convictions among the resentenced group were for misdemeanors.[183]

177 "Robbery" is comprised of all robbery in the first degree, robbery in the second degree, attempted robbery in the second degree, and carjacking.
178 Id.
179 See Mia Bird, et al., *Three Strikes in California*, California Policy Lab, Committee on Revision of the Penal Code, 32(August 2022).
180 Id. at 41.
181 Steven Raphael and John MacDonald, *The Effect of Scaling Back Punishment on Racial Disparities in Criminal Case Outcomes*, Working Paper (September 2019).
182 Alissa Skog and Johanna Lacoe, *Three Strikes Resentencing Under Proposition 36 (2012)*, California Policy Lab, 1 (September 24, 2005).
183 Id.

2025 Administrative Report

2025 Administrative Report

ORGANIZATION OF THE COMMITTEE

The Committee on Revision of the Penal Code was formed on January 1, 2020.[184]

The principal duties of the Committee are to make recommendations that:

1. Simplify and rationalize the substance of criminal law.
2. Simplify and rationalize criminal procedures.
3. Establish alternatives to incarceration that will aid in the rehabilitation of offenders.
4. Improve the system of parole and probation.[185]

For administrative and budgetary purposes, the Committee was located within the California Law Revision Commission. There is no substantive overlap in the work of the Committee and the Commission. By law, no person can serve on both the Commission and the Committee simultaneously.[186] Neither body has any authority over the substantive work of the other[187] and they each have different statutory duties.[188]

The Committee consists of up to 7 members. Five are appointed by the Governor for 4-year terms.[189] One is an assembly member selected by the Speaker of the Assembly and one is a senator selected by the Senate Committee on Rules.[190] The Governor selects the Committee's chair.[191]

The Committee is required to prepare an annual report for submission to the Governor and the Legislature.[192]

The Committee conducts its deliberations in public meetings, subject to the Bagley-Keene Open Meeting Act.[193] In 2025, it held 5 meetings. Meetings were conducted entirely by teleconference.[194]

PERSONNEL OF THE COMMITTEE

At the time this report was approved, the following people were members of the Committee:

Chair
Michael Romano

Legislative Members
Senator Scott Wiener
Assemblymember Isaac Bryan

Gubernatorial Appointees
Hon. Peter Espinoza (ret.)
Mary Kennedy
Priscilla Ocen
Heidi Rummel

184 Government Code § 8280(b).
185 Government Code § 8290.5(a).
186 See Government Code § 8281.5(d).
187 Government Code § 8290(c).
188 Compare Government Code §§ 8289, 8290 (duties of Commission) with Government Code § 8290.5 (duties of Committee).
189 Government Code § 8281.5(a), (c).
190 Government Code § 8281.5(a).
191 Government Code § 8283.
192 Government Code § 8293(b).
193 Government Code § 11120–11132.
194 Government Code § 1123.5

The following people are on the Committee's legal staff:

Joy F. Haviland
Senior Staff Counsel

Thomas M. Nosewicz
Legal Director

Rick Owen
Senior Staff Counsel

Natasha Minsker provided substantial support for the Committee's legislative program:

The following people from the California Policy Lab provided data analysis and research
support for the Committee:

Mia Bird
Johanna Lacoe
Molly Pickard
Manny Prunty
Steven Raphael
Nefara Riesch
Alissa Skog
Thomas Sloan
Elle Yang

The following people are staff of the California Law Revision Commission who provide managerial and administrative support for the Committee:

Sharon Reilly
Executive Director

Sarah Huchel
Chief Deputy Director

Christie House
Chief of Administrative Services

Megan Hayenga
Office Technician

This report was designed by Taylor Le.

ACTIVITIES PLANNED FOR 2026

In 2026, the Committee expects to follow the same general deliberative process that it used in past years. It will hold regular public meetings and will identify, debate, and develop recommendations for policies that improve public safety, reduce unnecessary incarceration, improve equity, and address racial disparities.

The Committee will also continue its work to establish a secure compendium of empirical data from various law enforcement and other sources in California. That data will be used by the Committee as a tool in evaluating the need for and effect of possible reforms.

ACKNOWLEDGEMENTS

Many individuals and organizations participated in Committee meetings in 2025, shared their expertise with staff, made public comment, or otherwise contributed towards this report. The Committee is deeply grateful for their assistance. Panelists who presented to the Committee are listed below. Inclusion of an individual or organization in this list in no way indicates that person's or their organization's view on the Committee's recommendations.

In addition, the Committee received expert research assistance in developing the recommendation to require heightened judicial scrutiny of gender-biased evidence in criminal trials from researchers at Cornell University's International Human Rights Clinic, including from Sandra Babcock, Bahar Mirgosseni, and Chelsea Halstead.

PANELISTS AND PRESENTERS

(in alphabetical order)

David Andreasen
Staff Attorney, California Appellate Project

Sandra L. Babcock,
Clinical Professor, International Human Rights Clinic, Cornell Law School and Faculty Director, Center on the Death Penalty Worldwide

Jamie Beck
Human Trafficking and Domestic Violence Expert Witness & Consultant

Judge Dan Bunch (Ret.)
Circuit Court Judge, 13th Judicial District, Oregon Judicial Department

Andrea N. Cimino
Research Director, The Regilla Project at the Stanford Criminal Justice Center

Judge Richard Couzens (ret.)

Justin Dews
Chair for New Jersey Clemency Advisory Board

District Attorney Dan Dow
San Luis Obispo County

Holly Fleming
Program Coordinator, Children's Advocacy Centers of California

Kathleen Guneratne
Alameda County Public Defender's Office

Gay Hardwick
Co-Founder of Phyllis's Garden

Tinisch Hollins
Executive Director, Californians for Safety and Justice

Wendy Howard

Alison Kephart
Chief Operating Officer, WEAVE

Elizabeth Lashley-Haynes
Los Angeles County Public Defender's Office

Judge Daniel P. Maguire
Yolo County Superior Court

Kate Mogulescu
Professor of Clinical Law, Brooklyn Law School and Legal & Policy Director of the Survivors Justice Project

Debbie Mukamal
Executive Director, Stanford Criminal Justice Center

Jess Nichol and Annie Nichol
Survivors Advocates, Partnered with Crime Survivors Speak

Simon O'Connell
Contra Costa County District Attorney's Office

Tracy Prior
Chief Deputy District Attorney, San Diego County

Manny Prunty
California Policy Lab

Professor Steven Raphael
California Policy Lab

Lisa Romo
Office of the State Public Defender

Elizabeth Sheehy
Professor Emerita of Law, University of Ottawa

Alissa Skog
California Policy Lab

OTHER SUPPORT

The Committee is grateful to the Legislature and Governor for supporting the Committee's research and data analysis with the California Policy Lab. The Committee also extends special thanks to personnel at the California Department of Corrections and Rehabilitation Department of Research and the California Department of Justice Research Department. The Committee also received generous support from staff and faculty at Stanford Law School, the Stanford Law School Library, and the Three Strikes Project.

Appendices

Appendix A: Biographies of 2025 Committee Members

Michael Romano, of San Francisco, serves as chair of the Committee on Revision of the Penal Code. Romano teaches criminal justice policy and practice at Stanford Law School and has been director of the Stanford Justice Advocacy Project since 2007. Romano has collaborated with numerous local, state, and federal agencies, including the United States Department of Justice and Office of White House Counsel under President Obama. He has also served as counsel for the NAACP Legal Defense and Educational Fund and other civil rights organizations. Romano was a law clerk for the Honorable Richard Tallman at the United States Court of Appeals for the Ninth Circuit from 2003 to 2004 and a legal researcher for the Innocence Project from 2000 to 2001. He earned a juris doctor degree with honors from Stanford Law School and a master of laws degree from Yale Law School.

Assemblymember Isaac Bryan, of Los Angeles, has been a member of the Assembly since 2021 and represents the 54th Assembly District, which includes, among other neighborhoods, Baldwin Hills, Crenshaw, Century City, Culver City, and Westwood. Prior to his election, Assemblymember Bryan served as the founding Director of the UCLA Black Policy Project, a think tank dedicated to advancing racial equity through policy analysis, served as the first Director of Public Policy at the UCLA Ralph J. Bunche Center, and Director of Organizing for the Million Dollar Hoods project. Assemblymember Bryan has authored several influential policy reports and led several campaigns at the intersection of racial, economic, and social justice. He earned a Master of Public Policy from the University of California, Los Angeles.

Peter Espinoza, of Los Angeles, served as director of the Office of Diversion and Reentry at the Los Angeles County Department of Health Services from 2016 to 2021. He served as a commissioner and judge at the Los Angeles County Superior Court from 1990 to 2016. Espinoza was an attorney at Peter Espinoza Attorney at Law from 1984 to 1990. Espinoza was a deputy public defender at the Orange County Public Defender's Office from 1981 to 1983. He earned a juris doctor degree from the University of California, Los Angeles, School of Law.

Mary Kennedy, of Sacramento, was Chief Counsel for the California State Senate Committee on Public Safety from 2017 to 2024, where she was previously Counsel from 1996 to 2017. She earned a Juris Doctor degree from the University of the Pacific McGeorge School of Law and a Bachelor of Arts degree in Mass Communications from Saint Mary's College, Notre Dame.

Priscilla Ocen, of Los Angeles, is a Professor of Law at Loyola Law School, where she teaches criminal law, family law, and a seminar on race, gender and the law. Ocen received the inaugural PEN America Writing for Justice Literary Fellowship and served as a 2019–2020 Fulbright Fellow, based out of Makerere University School of Law in Kampala, Uganda, where she studied the relationship between gender-based violence and women's incarceration. Ocen recently served as a Special Assistant Attorney General for the California Department of Justice and advised Attorney General Rob Bonta on issues related to criminal justice reform. She was also a member and former Chair of the Los Angeles Sheriff's Oversight Commission. She earned a juris doctor degree from the University of California Los Angeles, School of Law.

Heidi Rummel, of Los Angeles, is Clinical Professor of Law and Director, Post-Conviction Justice Project, at USC Gould School of Law. Under her supervision, second and third-year law students represent clients serving life terms in California prisons, many of whom were sentenced for crimes they committed in their youth. The Project has won the release of close to 200 clients through the parole process, on habeas corpus challenging the denial of parole, on resentencing petitions, and on habeas corpus challenging murder convictions where expert testimony of intimate partner violence was not admitted at trial. Prior to joining the USC Gould School of Law faculty, Rummel served in the United States Attorney's Office in Los Angeles from 1996-2005 prosecuting federal criminal civil rights offenses, including human trafficking, police misconduct, and hate crimes. She also prosecuted gang crimes, arson cases, and child pornography offenses, and served as deputy chief in the General Crimes Section. Previously, Rummel was an Assistant United States Attorney for the District of Columbia, where she handled state court prosecutions and appellate matters. She clerked for the Honorable Thomas Penfield Jackson of the United States District Court for the District of Columbia. Rummel holds a BA from the University of North Carolina at Chapel Hill with highest honors and a JD from the University of Chicago with honors.

Senator Scott Wiener, of San Francisco, has been a member of the Senate since 2016. Before his election to the Senate, Senator Wiener served on the San Francisco Board of Supervisors. Before his election to the Board of Supervisors, Senator Wiener spent fifteen years practicing law: as a Deputy City Attorney in the San Francisco City Attorney's Office, in private practice at Heller Ehrman White & McAuliffe, and as a law clerk for Justice Alan Handler on the New Jersey Supreme Court. He received a bachelor's degree from Duke University and a law degree from Harvard Law School.

Appendix B: Timeline of Changes to the Serious and Violent Lists

YEAR	VIOLENT	SERIOUS
1977	Created for the Uniform Determinate Sentencing Act, Penal Code § 667.5(c): • Murder or voluntary manslaughter • Mayhem • Rape (as then defined) • Sodomy by force, violence, duress, menace, or threat of great bodily injury • Oral copulation by force, violence, duress, menace, or threat of great bodily injury • Lewd or lascivious act on a child under 14 years of age • Any felony punishable by death or life imprisonment • Any felony in which the defendant personally inflicts great bodily injury on any person other than an accomplice. • Any felony in which the defendant personally uses a firearm. Stats. 1977, c. 165 § 13.	
1982		Created by Proposition 8, Penal Code § 1192.7(c): • Murder or voluntary manslaughter • Mayhem • Rape • Sodomy by force, violence, duress, menace, or threat of great bodily harm • Oral copulation by force, violence, duress, menace, or threat of great bodily harm • Lewd acts on a child under the age of 14 years • Any felony punishable by death or imprisonment in the state prison for life • Any other felony in which the defendant inflicts great bodily injury on any person, other than an accomplice • Any felony in which the defendant uses a firearm • Attempted murder • Assault with intent to commit rape or robbery • Assault with a deadly weapon or instrument on a peace officer • Assault by a life prisoner on a noninmate • Assault with a deadly weapon by an inmate • Arson • Exploding a destructive device or any explosive with intent to injure • Exploding a destructive device or any explosive causing great bodily injury • Exploding a destructive device or any explosive with intent to murder • Burglary of a residence • Robbery • Kidnapping • Taking of a hostage by an inmate of a state prison • Attempt to commit a felony punishable by death or imprisonment in the state prison for life • Any felony in which the defendant personally used a dangerous or deadly weapon • Selling, furnishing, administering or providing heroin, cocaine, or phencyclidine (PCP) to a minor • Any attempt to commit a crime listed in this subdivision other than an assault Prop. 8, § 7, approved June 8, 1982.

YEAR	VIOLENT	SERIOUS
1986		Added sexual penetration by force. Expanded: • Definitions of sex offenses • Burglary to include all first-degree offenses Stat. 1986, c. 1299, § 11; Stats. 1986, c. 489, §1.
1987	Added robbery of an inhabited dwelling, but only when the defendant personally used a deadly or dangerous weapon. Stats. 1987, c. 611, § 1.	
1988	Added: • Arson • Sexual penetration by force • Use of a firearm from a motor vehicle causing great bodily injury during a felony (as a prior enhancement offense). Stats. 1988, c. 70, § 1; Stats. 1988, c. 89, § 1.5.	Added: • Sexual penetration by force or fear • Bank robbery Expanded selling drugs to a minor to include methamphetamine. Stats. 1988, c. 89, § 2; Stats. 1988, c. 432, § 2; Stats. 1989, c. 1043, § 2.
1989	Added attempted murder. Stats. 1989, c. 1012, § 1	Added "grand theft involving a firearm." Expanded plea bargaining restrictions to include any felony involving personal use of a firearm. Stats. 1989, c. 1044, § 2.
1990	Added use of explosives or destructive devices with the intent to commit murder. Stats. 1990, c. 18, § 1	
1991	Added: • Kidnapping • Continuous sexual abuse of a child Expanded robbery. Stats. 1991, c. 451, § 1.	
1993	Added carjacking where the defendant personally used a deadly or dangerous weapon. Expanded: • Robbery to include inhabited floating homes • Kidnapping offenses Stats. 1993, c. 162, § 3; Stats. 1993, c. 298, § 2; Stats 1993, c. 610, § 10; Stats. 1993, c. 611, § 11.	Added: • Carjacking • Conspiracy to commit drug offenses involving minors when the defendant was substantially involved in the planning, direction, or financing Stats. 1993, c. 588, § 1; Stats. 1993, c. 610, § 16.
1994	Added "spousal rape." Stats. 1994, c. 1188, § 6.	
1997	Added: • Rape in concert • Robbery of an inhabited structure in concert with two or more persons Stats. 1997, c. 504, § 2.	

YEAR	VIOLENT	SERIOUS
1998		Added: • Continuous sexual abuse of a child • Throwing acid or flammable substances • Assault with a deadly weapon on a firefighter • Rape or sexual penetration in concert • Use of a firearm in the commission of listed felonies (PC 12022.53) Stats. 1998, c. 754, § 1; Stats. 1998, c. 936, § 13.
1999		Added false imprisonment. Stats. 1999, c. 298, § 1.
2000	Added: • Assault with intent to commit mayhem, rape, sodomy, or oral copulation • First-degree burglary with a person present • Gang-related extortion and threats to victims/witnesses • Threats to victims or witnesses • Offenses with "10-20-life" firearm enhancement Expanded: • Robbery now includes all robberies. • Carjacking no longer required weapon use • All kidnapping (not limited to specified sections) • Arson Prop. 21, § 15, approved March 7, 2000.	Added: • Gang crimes • Assault with intent to commit mayhem, rape, sodomy, or oral copulation • Throwing acid or flammable substances • Assault with a deadly weapon or firearm on a peace officer or firefighter • Assault with a deadly weapon on a public transit employee, custodial officer, or school employee • Discharge of a firearm at an inhabited dwelling • Commission of rape or penetration by a foreign object in concert • Continuous sexual abuse of a child • Shooting from a vehicle • Intimidation of victims or witnesses • Criminal threats • Offenses with "10-20-life" firearm enhancement Inadvertently removed false imprisonment. Prop. 21, § 17, approved March 7, 2000.
2002	Added offenses involving weapons of mass destruction. Stats. 2002, c. 606, §§ 2 & 3.	
2006	Added sex offenses committed against a child who is under 14 years old and more than 10 years younger than the defendant, or committed in concert. Stats. 2006, c. 337, § 30; Prop. 83, § 9, approved Nov. 7, 2006.	
2023		Added human trafficking of a minor, except where the defendant was also a victim of human trafficking at the time of the offense. Stats. 2023, c. 230, § 4.
2024	Added rape of an unconscious person, where it is pleaded and proved that the defendant caused the intoxication by administering a controlled substance to the victim without their consent and with the intent to sexually assault them. Stats. 2024, c. 855, § 1.	

Appendix C: Consequences of Serious and Violent Felonies

A consequence was generally included on this list if it referred specifically to the serious and violent offense lists in Penal Code §§ 1192.7(c) and 667.5(c). Other non-serious or nonviolent convictions may also trigger some of these consequences.

CATEGORY	STATUTE	CONSEQUENCE
Three Strikes Law	Penal Code 667(c)(6), (7), (8)	Consecutive sentencing is required for new felony convictions when the person has a prior serious or violent felony conviction.
	Penal Code 667(e)(1)	Requires doubling of the determinate term or minimum term for an indeterminate sentence when the person has a prior serious or violent conviction.
	Penal Code 667(e)(2)(A)	Allows indeterminate life sentence for a new felony conviction when the person has a prior serious or violent conviction.
	Penal Code 667(d)(3)	Juvenile adjudications can count as prior serious or violent convictions.
	Penal Code 667(f)(1), (2)	Prosecutors are required to charge prior strikes, and can only but can move to dismiss them in furtherance of justice.
	Penal Code 667(g)	Dismissal of prior strikes shall not be used in plea bargaining. Prosecutors are required to plead and prove all known priors, and not enter into an agreement to strike them.
	Penal Code 1170.12	When a person convicted of a felony has a prior conviction for a serious or violent offense, the court must deny probation and diversion, impose a state prison term with no aggregate term limits on consecutive sentencing, consecutive sentencing for additional crimes are required, conduct credits are limited to ⅓ of the imposed term, and the age of the prior does not impact the law.
Other Punishment & Sentencing	Penal Code 667(a)(1)	"Nickel prior" — 5-year sentence enhancement applied to current serious offense if person has prior serious conviction.
	Penal Code 667(c)(2)	Probation shall not be granted on a new felony conviction if the person has a prior serious or violent conviction.
	Penal Code 667(c)(4)	A person convicted of a felony who has a prior serious or violent conviction must serve their sentence in prison.
	Penal Code 667(c)(5)	Limits credit-earning for people sentenced to prison who have a prior serious or violent conviction.
	Penal Code 667.5(a)	A three-year enhancement is added to a sentence for a violent offense for each separate prior prison term for a violent offense, subject to a 10-year washout period.
	Penal Code 186.22(b)(1)(B), (C)	The felony gang enhancement, which applies when a person is convicted of a felony to promote a criminal gang, adds an additional 5-year sentence for a serious offense and 10 years for a violent offense.
	Penal Code 422.75	A one-year enhancement for prior hate crimes if presently convicted of a hate crime only applies if enhancements under 667 and 667.5 are not applied.

CATEGORY	STATUTE	CONSEQUENCE
Other Punishment & Sentencing	Penal Code 602(t)	Misdemeanor trespassing offense where a person has been informed by police or property owner to stay away after being convicted of a crime on private property, has no time limitation on when the order was given if the person has been convicted of a violent offense.
	Penal Code 629.82	Law enforcement officers can testify to information gathered about violent offenses discovered through a wiretap authorized to investigate other crimes in some circumstances
	Penal Code 667.6	A person convicted of one of the sex offenses listed in this section is subject to a ten-year enhancement for each prior prison term for a violent offense if they have served two or more terms.
	Penal Code 667.7	A person convicted of a felony in which they inflicted great bodily injury or personally used force likely to cause great bodily injury, who has served two or more prior separate prison terms for certain violent offenses can be declared a "habitual offender" and be subject to an indeterminate sentence for the offense, or life without the possibility of parole.
	Penal Code 667.95	When sentencing a person convicted of a violent offense, the court may consider in aggravation that the defendant willfully recorded a video of the violent felony with intent to encourage or facilitate offense.
	Penal Code 1000.7(b)(5)	A person with a prior or current serious or violent conviction is ineligible to participate in a deferred entry pilot program in juvenile hall.
	Penal Code 1000.8	Judges can sentence people convicted of first-time felony drug offenses to a deferred entry of judgment reentry program, but not if they have previously been convicted of a serious felony.
	Penal Code 1001.83	People charged with serious or violent felonies are ineligible for pretrial diversion programs for primary caregivers.
	Penal Code 1170(h)(3)	People who have a prior conviction for serious or violent offense must serve any incarceration sentence for a felony in state prison, even if the offense provides for a local jail sentence.
	Penal Code 1170.82(b)	Selling drugs to a person with a prior violent conviction is a circumstance in aggravation for sentencing.
	Penal Code 1170.84	Engaging in the tying, binding, or confining of any victim is a circumstance in aggravation for sentencing for anyone convicted of a serious offense.
	Penal Code 1174.4(a)(2)	A person may be ineligible for certain alternative sentencing programs if convicted of a violent offense.
	Penal Code 1203(k)	A person on probation for a felony who is convicted of a new serious or violent offense is not eligible for probation or suspension of imposition of sentence.

CATEGORY	STATUTE	CONSEQUENCE
Other Punishment & Sentencing	Penal Code 1203.1(l)	Two-year probation term limitation does not apply to convictions for violent offenses.
	Penal Code 1203.085(b	A person convicted of a violent or serious offense while on parole shall not be granted probation.
	Penal Code 1203.44(b)(1)(B)-(C)	A person convicted of a serious or violent offense is not eligible for a voluntary secured residential substance use treatment pilot program known as "Hope California" in Sacramento and Yolo Counties.
	Penal Code 31360	It is a felony for a person previously convicted of a violent offense to possess body armor.
	Health & Saf. Code 11370.2	Three-year enhancement that applies to people convicted of drug offenses that have a prior conviction for selling drugs through the use of a minor, can be applied in addition and consecutive to other enhancements, including the three-year enhancement that can apply to people convicted of a violent offense who have served a prior prison term for a violent offense.
	Welf. & Inst. Code 602.3(a)	A juvenile court is required to commit any minor adjudicated to be a ward of the court for the personal use of a firearm in the commission of a violent offense, to placement in a juvenile hall, ranch, camp, or with the Department of the Youth Authority.
	Welf. & Inst. Code 726	The maximum period of confinement for minors removed from the physical custody of parents or guardians cannot exceed the middle term that could be imposed on an adult convicted of the same offenses, inclusive of enhancements and consecutive sentencing provisions.
	Welf. & Inst. Code 875	The maximum period of confinement for juvenile wards committed to secure youth treatment facilities cannot exceed the middle term that could be imposed on an adult convicted of the same offenses, inclusive of enhancements and consecutive sentencing provisions.
	Welf. & Inst. Code 1732.5	No person 18 or older who committed a serious offense shall be committed to the Youth Authority.
Parole & Community Supervision	Penal Code 2910.5	People convicted of a violent offense may be held in facilities specially designed to hold parole violators and specified state prison inmates.
	Penal Code 3000.08(a)(1-2)	A person released from prison on or after July 1, 2013, for a serious or violent offense is subject to parole supervision by CDCR.
	Penal Code 3001(a)(1-3)	After release from prison on a violent offense, must serve a minimum of two years on parole, while a serious offense requires one year.
	Penal Code 3003	For specified violent offenses, a person released from prison on parole shall not be placed within 35 miles of the victim or witness to the crime, if CDCR or BPH finds there is a need to protect the victim or witness's safety.
	Penal Code 3060.9(e)(3)	When a person violates parole, CDCR can place them in special rehabilitation programs instead of returning them to prison, but if the basis of the violation is a new serious or violent offense, the person is not eligible for programs.
	Penal Code 3063.1	Elements of Proposition 36, a voter initiative from 2000, do not apply to people who have been convicted of serious or violent offenses.

CATEGORY	STATUTE	CONSEQUENCE
Parole & Community Supervision	Penal Code 3069	Person alleged to have committed a serious or violent offense while on parole is not eligible for the Parole Violation Intermediate Sanctions program.
	Penal Code 3451	People convicted of serious or violent offenses are not eligible for post-release community supervision, which is overseen by a county probation department, and are instead supervised by a state parole officer.
	Penal Code 6243	People convicted of a violent offense are not eligible for substance abuse community correctional detention centers.
	15 CCR 2449.5(d)(1)	Prior violent conviction within 15 years is considered an aggravating factor when determining parole suitability for nonviolent release under Proposition 57.
	15 CCR 2535(b)(1)	A person on parole for a violent offense receives a parole adjustment review during the 25th month of continuous parole, instead of the 13th month.
	15 CCR 2535(d)(3)	Engaging in any criminal conduct while on parole for a serious offense is considered good cause to be retained on parole.
	15 CCR 3078.9	A woman incarcerated with a current or prior conviction for a violent offense is not eligible for the Community Participant Mother Program unless there are unusual or mitigating circumstances, or the convictions were for robbery or burglary.
	15 CCR 3079.1(a-b)	An incarcerated person serving a current term for a serious or violent offense is ineligible for Postrelease Community Supervision.
	15 CCR 3504	A person on parole convicted of a violent offense is subject to "high control" and is not automatically assigned to the minimum supervision category after 180 days of satisfactory parole.
	15 CCR 3505(a)(2-3)	An incarcerated or supervised person who has committed a violent or serious offense is not eligible for non-revocable parole.
	15 CCR 3521.1(c)(1-2)	A person with a past or current violent or current serious offense may be considered for the Parole Service Center Program only on a case-by-case basis.
	15 CCR 3521.2(d)(1-2)	A person with a past or current violent or serious offense may be considered for the Residential Multi-Service Center Program only on a case-by-case basis.
	15 CCR 3610(f)(3)	A parole agent must refer a violent offender to a Parole Outpatient Clinic for mental health services if a mental disorder contributed to the offense.
	15 CCR 3720(b)(1)	A supervised person who committed a violent offense and is on a three-year probation period will have a case review during the 24th month of continuous parole.
	15 CCR 3721	When making a recommendation to retain or discharge a person on parole, the parole agent must consider whether or not the supervised person's commitment offense is serious or violent, and whether the person has a prior conviction for a serious or violent offense, among other things.
	15 CCR 3760(b)(1–2)	A person released from state prison after serving a term for a serious or violent offense is subject to parole supervision by CDCR and the court in the county where the supervised person is supervised or the county in which the alleged parole violation occurred.

CATEGORY	STATUTE	CONSEQUENCE
CDCR Placements and Credits	Penal Code 1170.05(d)(1-2); 15 CCR 3078.3	A person with a current conviction for a serious or violent offense is ineligible to participate in the alternative custody program.
	Penal Code 2933.05	Rehabilitative programming credits created by this section shall not be awarded to people serving a life sentence for a violent offense.
	Penal Code 2933.1(a)	A person committed to CDCR for a violent offense cannot accrue more than 15% of work time credit.
	Penal Code 3417(b)(1)(C)	A person convicted of a serious or violent offense is not eligible for CDCR community treatment programs for mothers, except in unusual circumstances considered on a case-by-case basis if the violent offense was for robbery or burglary.
	Penal Code 6228	A defendant with a prior serious or violent conviction is ineligible for placement in a restitution center.
	15 CCR 3043(c)(2)	An incarcerated person serving a term for a violent offense cannot have credit awarded to advance their release date to less than 60 days.
	15 CCR 3043.2(b)(2)	An incarcerated person who is serving a term for a violent offense earns: (A) one day of credit for every four days of incarceration (20%), beginning May 1, 2017; and then (B) one day of credit for every two days of incarceration (33.3%), beginning May 1, 2021; (C) one day of credit for every day of incarceration (50%) for Work Group F.
	15 CCR 3327(c)(2)	A person who has been convicted of a violent offense is not eligible for credit restoration in prison after serving a disciplinary-free period.
	15 CCR 3328	A person who committed a violent offense can be eligible for a one-time credit restoration application only if local law enforcement is notified of their release in not less than the 45-day time frame otherwise required by law.
	15 CCR 3371.1(g)(1–2)	If an incarcerated person has multiple convictions, and one is a violent offense, then all convictions and enhancements are considered violent for Good Conduct Credit.
	15 CCR 3375.2(b)(28)	Administrative or irregular placement conditions known as administrative determinants, which may be imposed to override the placement of an incarcerated person at a facility according to their placement codes, include among others, that the incarcerated person has a current or prior conviction for a violent offense, a sustained administrative determination regarding allegations of violent acts, or a probation or Post-Release Community Supervision violation involving a violent offense.
Program & Benefits Denial	Gov't Code 13956(c)(1)	A person convicted of a violent offense cannot be granted victim compensation until after release from a correctional facility. A person may apply for compensation at any time, but the award may not be considered until the applicant is released from probation.
	Penal Code 26202(a)(6)	A person is disqualified from receiving a gun license if they were arrested for a serious or violent offense that was dismissed through a plea or with a waiver pursuant to People v. Harvey (1979) 25 Cal.3d 754.
	Welf. & Inst. Code 12305.87(b)(1)	A person convicted of a serious or violent offense is not eligible to provide or receive payment from In-Home Supportive Services for 10 years.
	Welf. & Inst. Code 13303(b)(3)(A)(i)	Funds for legal services for non citizens cannot be used for a person who has a serious or violent conviction.
	Welf. & Inst. Code 16501(k)(1)(D)(E)	In counties that provide child welfare services to alleged victims of abuse, neglect, or exploitation, the county welfare director can allow employment of a person convicted of a felony if they find substantial and convincing evidence to support a reasonable belief that the employee is of good character to justify frequent and routine contact with children. However, an exemption shall not be granted for individuals who have been convicted of a violent offense. The county welfare director shall suspend such a person from any duties involving frequent contact with children, unless the person has received a certificate of rehabilitation.

CATEGORY	STATUTE	CONSEQUENCE
Program & Benefits Denial	2 CCR 649.4	A person convicted of a violent offense will be denied assistance from the CalVCB if the assistance is for monetary loss sustained after the conviction and before being discharged from supervision.
	15 CCR 3077(b)(2)	An incarcerated person is not eligible to participate in an SB-618 program if they have been convicted of a violent offense.
Professional & Occupational Restrictions	Bus. & Prof. Code 480(a)(1)(A)	A state professional licensing board covering, among industries, real estate and alcoholic beverages, may deny an applicant a license if they have been convicted of a crime within seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession. The seven-year limitation does not apply to serious felonies.
	Bus. & Prof. Code 2232.5(a)(1), (b)(3)	The State Medical Board shall automatically suspend a license following the conviction of a serious offense.
	Bus. & Prof. Code 7458(c)(1)	People convicted of a serious offense are banned from accessing app-based driving networks.
	Bus. & Prof. Code 26057(b)(4)(A), (B)	The Department of Cannabis Control can deny or revoke a state license to sell marijuana if the candidate has been convicted of an offense that is substantially related to the qualifications or duties of the license. In determining which offenses are substantially related, the department shall consider whether the person has been convicted of a violent or serious offense.
	Educ. Code 44237(e)(1)	A private elementary or high school may not employ anyone convicted of a violent or serious offense unless they obtain a certificate of rehabilitation or a pardon.
	Educ. Code 44332.6	With limited exceptions, a county board of education cannot issue a temporary certificate authorizing the performance of services in public schools to a person convicted of a serious or violent offense.
	Educ. Code 44346.1(a)	A person convicted of a violent or serious offense will be denied teaching credentials, unless the person has obtained a certificate of rehabilitation or a pardon, in which case, the commission may, but is not required to, grant a credential.
	Educ. Code 44830.1(a)	A person who is convicted of a violent or serious offense may not be hired by a school district for positions that require certification qualifications. A school cannot retain the employment of a person who is already certified if they are convicted of such an offense.
	Health & Saf. Code 1522	Limitations on foster care licensing if a person has been convicted of a violent offense against a person.
	Health & Saf. Code 1568.061(d)	Violent conviction results in forfeiture of license to operate a residential care facility for the chronically ill.
	Health & Saf. Code 1568.09	Limitations on residential care licensing if a person has been convicted of a violent offense against a person.
	Health & Saf. Code 1569.17(f)(1)(A)	Case-by-case exemptions from license disqualification for employment in a residential care facility for the elderly unavailable for people convicted of a violent offense.
	Health & Saf. Code 1569.19(d)	Violent conviction results in forfeiture of license to operate a residential care facility for the elderly.
	Health & Saf. Code 1596.858(d)	Violent conviction results in forfeiture of license to operate a child day care facility.
	Health & Saf. Code 1596.871(f)(1)(A)	Case-by-case exemptions by the director of a child day care facility from disqualification for a license or special permit unavailable for people convicted of a violent offense.

CATEGORY	STATUTE	CONSEQUENCE
Professional & Occupational Restrictions	Public Resources Code 5164(a)	A person convicted of a violent offense is ineligible to be hired or serve as a volunteer in county or city-operated parks, playgrounds, recreational centers, or beaches if the position involves supervisory or disciplinary authority over minors, and they were incarcerated within the last 10 years for that offense.
	Public Utilities Code 5445.2(a)(2)	Prohibits transportation network companies from hiring people convicted of a violent offense.
	Veh. Code 13370(a)(5)	People convicted of a serious or violent offense are banned from school bus or other special vehicle driver certificates.
	Welf. & Inst. Code 4689.2	A violent felony conviction generally bars a person from operating, working in, or being present in a "family home" that provides care to adults with developmental disabilities.
	Welf. & Inst. Code 5405(c)(1)	10 year ban and immediate suspension for people convicted of serious or violent felonies on employment or contracting in a state-licensed mental health facility.
	Welf. & Inst. Code 11324	A prior conviction for a violent offense makes a child care provider ineligible to receive state-subsidized payment for providing child care services that are exempt from licensing.
	4 CCR 15017(b)(1-2)	Violent and serious convictions can be grounds to deny, suspend, or revoke a cannabis license.
	16 CCR 2970	A serious felony conviction can be the basis for the denial, suspension, or revocation of a household mover permit.
	17 CCR 56085	A conviction for a violent offense that is an offense against a person bars the convicted person from receiving an exemption to work in or be present in a "family home" serving adults with developmental disabilities.
	22 CCR 87835	A conviction for a violent offense results in forfeiture of a person's license to operate a residential care facility for the chronically ill.
Judicial & Legal Processes	Code of Civ. Proc. 340.3(b)(1)	10 year statute of limitations for bringing damages lawsuit against defendant convicted of most serious offenses. For non-serious cases, it's 1 year
	Evid. Code 1350	In serious felony cases, a witness's recorded or sworn statement can be admitted despite the hearsay rule if there is clear and convincing evidence that the declarant's unavailability was intentionally caused through murder or kidnapping to prevent testimony.
	Penal Code 236.14; 236.15	Vacatur relief available to convicted people who can show their crime was committed as a direct result of their human trafficking or intimate partner violence victimization only applies to nonviolent felony convictions.
	Penal Code 236.23; 236.24	The coercion defense — an affirmative defense that provides a complete defense to crimes committed as a direct result of the accused person's human trafficking or intimate partner violence victimization — cannot be used as a defense to violent felony charges.
	Penal Code 1203.425	Convictions for serious or violent offenses are ineligible for automatic record relief.
	Penal Code 1269b	In adopting a county bail schedule, judges must assign an additional amount of required bail for each aggravating or enhancing factor chargeable in the complaint, including that the offense was a violent felony.
	Penal Code 1270.1	A hearing must be held before a person may be released on bail in an amount that is more or less than the bail schedule if charged with a serious or violent offense.
	Penal Code 1272.1	When considering release on bail pending appeal of a criminal conviction, the court must consider whether the defendant was convicted of a violent offense.
	Penal Code 1275(c)	The court has to find "unusual circumstances" to reduce bail below the county bail schedule for a person charged with a violent or serious offense.

CATEGORY	STATUTE	CONSEQUENCE
Judicial & Legal Processes	Penal Code 1318.1	If a court employs staff to prepare reports on whether a defendant should be released on their recognizance, such a report must be prepared in all cases involving a violent offense.
	Penal Code 1319	No person arrested for a violent offense can be released on their own recognizance unless a hearing has been held and the prosecutor has been given an opportunity to be heard. A person arrested for a violent offense also cannot be released on their recognizance if there is clear and convincing evidence they failed to appear in court while a previous felony case was pending.
	Penal Code 1347	Witnesses under the age of 14 can testify remotely if, among other necessary facts, the defendant is charged with a violent offense.
	Penal Code 1370	A person found incompetent to stand trial in a violent offense case may not be delivered to a treatment facility unless the court determines there are sufficient security provisions, including a secured perimeter or locked and controlled facility, to protect public safety. If the person found incompetent is placed on outpatient status, the court must notify defense counsel, the sheriff for the county where the person will be released, and the prosecutor in the court where the violent offense occurred.
	Penal Code 1370.1	A person found incompetent to stand trial, who has been determined to have a developmental disability, and who is charged with a violent felony may not be delivered to a treatment facility unless the court determines there are sufficient security provisions, including a secured perimeter or locked and controlled facility, to protect public safety. A court may only place the person found incompetent on outpatient status if the placement will not pose a danger to the health or safety of others.
	Penal Code 1387.1(a)	Under Penal Code 1387 a second dismissal is ordinarily a bar to future prosecution, but for violent felonies, the prosecution has an additional refiling opportunity if a previous refiling was due to excusable neglect.
	Penal Code 1473.5(a–b)	Allows habeas corpus for violent felonies committed before August 29, 1996 on the basis that expert testimony relating to intimate partner battering and its effects was not presented.
	Welf. & Inst. Code 707	A minor who was 14 or 15 years old at the time of the offense but was not apprehended until after juvenile court jurisdiction ended is subject to having their case transferred to adult court only when the charged offense is on the statutorily enumerated offenses, including a violent offense that also qualifies as a felony gang offense under Penal Code section 186.22(b).
	Welf. & Inst. Code 782(a)(2)(E)	Juvenile court judges can dismiss cases & must "afford great weight" to evidence of mitigating circumstances, including but not limited to satisfactory completion of probation. "Great weight" standard does not apply in cases where an individual has been convicted in criminal court of a serious or violent offense.
	Welf. & Inst. Code 6501	If a person charged with a violent offense is committed to the Department of Developmental Services for placement in a secure treatment facility, the state must give priority placement at Porterville Developmental Center over other secure facilities.
Sex Offender Registration	Penal Code 290(d)(2), (3)	A person convicted of a registrable sex offense will be required to register for a minimum of 20 years if the offense is also classified as a serious or violent offense.
	Penal Code 290.008(d)(1–2)	A juvenile adjudicated as a ward of the court for a registrable sex offense will be required to register for a minimum of 10 years to life if the offense is also classified as a serious or violent offense.
	Penal Code 290.5	People subject to tier-two sex offender registration requirements can petition for removal from the registry after 10 years if the conviction was not for a violent offense (except § 288(a)), and they have not been convicted of a violent felony since. People subject to tier-three registration based on risk level can petition for removal after 20 years, but not if they have been convicted of a violent felony since.

CATEGORY	STATUTE	CONSEQUENCE
Disclosure & Public Information	Health & Saf. Code 11361.5(a)	Record expungement laws created by Prop. 64 (The Adult Use of Marijuana Act) that require destruction of records of people arrested or convicted of marijuana sales offenses while under the age of 18 do not apply to persons whose arrest was for a serious or violent offense.
	Labor Code 432.7(e)(2)	Arrest records for serious or violent offenses can be disclosed for nonsworn members of a criminal justice agency, but only for those positions for which the specific duties relate to the collection or analysis of evidence or property or apprehension, prosecution, and incarceration.
	Penal Code 3058.6(a)	CDCR must notify the local sheriff or chief of police, or both, and the district attorney at least 60 days before the release on parole of a person convicted of a violent offense.
	Penal Code 4537	If a person convicted of a violent offense escapes from custody, local newspapers and television stations must be notified.
	Penal Code 11105.03	Information related to a conviction for a serious offense, among other offenses, may be released by local law enforcement agencies for background checks by staff of public housing authorities.
	Penal Code 11105.6(d)	Law enforcement may tell a bail agent whether an individual subject to a bench warrant has been convicted of a violent offense.
	Penal Code 13665(b) (1–2)	Generally, a police department or sheriff's office may not share on social media an individual's name and booking photos when they are arrested for a nonviolent crime. Police can share the booking photo of a person arrested for a violent crime, but the agency must remove the post from its social media page within 14 days.
	Penal Code 14207(a)(1)	DOJ shall maintain publicly accessible information on persons with an arrest warrant for a violent offense.
	Welf. & Inst. Code 204.5	A 14-year-old or older minor's name may be disclosed to the public if they become a ward of the court due to a sustained petition for a serious or violent offense.
	Welf. & Inst. Code 827.5	A 14-year-old or older minor's name may be disclosed to the public if they are taken into custody for a serious offense.
	Welf. & Inst. Code 827.6	A law enforcement agency may release information about a minor who has an outstanding arrest warrant for a violent offense if the release of this information would assist in the apprehension of the minor or the protection of public safety.

CATEGORY	STATUTE	CONSEQUENCE
Disclosure & Public Information	Welf. & Inst. Code 827.7(b)	A court may authorize a sheriff to disclose information about a minor who a court has found to have committed a violent offense if disclosure is imperative for the protection of the public.
	Welf. & Inst. Code 5328(a)(20)(A)	Allows specified facilities such as psychiatric hospitals to disclose to law enforcement a person's presence in a facility when the officer has an arrest warrant for a serious or violent offense.
Victims	Penal Code 1202.4(f)(3)(J)	For convictions for violent felonies, restitution can include expenses to install or increase the victim's residential security.
	Penal Code 1335(b)	When a person is charged with a serious offense, a witness may be examined conditionally (remotely) if there is evidence that their life is in danger.
	Penal Code 5065.5(a)(1)	When a person incarcerated in CDCR enters into a contract to sell the story of a crime which was a specified serious offense, CDCR and the victim must be notified.
Schools	Educ. Code 33193(a)(2); 33195.3(a)(2)	When a private or heritage school contracts with an entity for construction or repair and the employees will have more than limited contact with the pupils, the school must ensure the safety of the pupils by either placing a physical barrier at the worksite, or ensuring continuous monitoring of all the employees by a person who has not been convicted of a serious or violent offense.
	Educ. Code 45122.1(a)	A school district shall not employ a person who has been convicted of a serious or violent offense unless that person has obtained a certificate of rehabilitation.
	Educ. Code 45125.2(a)	Mandatory monitoring of contractors working on schools must be done by an employee who has not been convicted of a serious or violent offense.
	Educ. Code 48929	A student may be moved to another school by the district if they are convicted of a violent offense and are enrolled in the same school as the victim.
Family	Family Code 4324.5	In divorce proceedings, if one spouse has been convicted of a violent sex or violent domestic violence offense against the other spouse within 5 years after conviction, the convicted spouse cannot get spousal support, can be ordered to pay costs for the injured spouse, and other community property interests may change.
	Family Code 6306(b)(1)	A court must consider a conviction for a violent or serious offense when determining whether to issue a domestic violence protective order or custody and visitation orders.
	Welf. & Inst. Code 213.5(k)(2)	Before ruling on a restraining order protecting a dependent child of the juvenile court, the court will consider whether the potentially-restrained person has a conviction for a serious or violent offense.
	Welf. & Inst. Code 361.5(b)(12)	Reunification services for the parents of dependent children are not required to be provided to a parent who has been convicted of a violent offense.
Immigration	Govt. Code 7282; 7282.5(a)(1)	Excluded from "California Values Act": Law enforcement may cooperate with immigration authorities under certain circumstances, including by providing information about the person's release date and transferring them to immigration custody, if the individual was convicted of a serious or violent offense.


COMMITTEE ON
REVISION OF
THE
PENAL CODE