

# '98 attorney



Pictured, clockwise: Goldsmith, Kopp, Schenk, Capizzi, Stirling, Calderon, Poochigian, and center; Lockyer.

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# general's race unsettled, crowded

With Dan Lungren running for governor, a large field of potential successors is studying the odds, lining up support and weighing the options. Several candidates also have one eye on a lawsuit that could derail legislative term limits.

By Sigrid Bathen

Attorney General Evelle Younger once remarked that the attorney general may well occupy a more powerful position in California state government than even the governor. He hedged somewhat, saying the state's top legal and law enforcement position — often a springboard to “higher office” (e.g., the governor) — “touches the lives of Californians probably more than any other state office, with the possible exception of the governor.”

He thought about that, then added: “And I'm not even sure the governor should be excepted.”

A much earlier inhabitant of the office, Attorney General Robert W. Kenny, who served from 1943-47, put it more bluntly: “A smart A.G.,” he said, “could practically take over the state from a dumb governor — if he had a mind to.”

Neither Younger nor Kenny went on to become governor — although Younger tried, and lost to Jerry Brown in 1978 — but others did, including George Deukmejian, Pat Brown and Earl Warren, who then capped off his career as chief justice of the U.S.



Supreme Court. John Van de Kamp, the former Los Angeles district attorney who succeeded Deukmejian when the latter became governor in 1983, was long touted as gubernatorial material. He tried in 1990 but lost in the primary to Dianne Feinstein, who lost in the general to Pete Wilson.

And now, to no one's particular surprise, Republican Attorney General Dan Lungren, who succeeded Democrat Van de Kamp, wants to be governor. His likely choice as successor in the top cop's job: Chief Deputy Attorney General M. David Stirling, a former state legislator and judge, who lost a bid for the Republican nomination for attorney general in 1982, and who has mounted the earliest organized campaign for the '98 race — one of the few in a crowded field who has actually said he *is certain* to run, recently retaining the prominent Republican political consulting firm of Sal Russo. Stirling has the advantage of both position and timing, though not substantial statewide name recognition.

In addition to Stirling, others who, according to the secretary of state's office, have formed exploratory committees, include Senate President pro Tempore Bill Lockyer (D-Hayward), Senator Charles Calderon (D-Whittier), Orange County District Attorney Michael Capizzi, a Republican, and former U.S. Representative Lynn Schenk (D-San Diego). Now in private practice in San Diego, Schenk said it's too early to make a final decision and her efforts are purely exploratory at this point. Others whose names have appeared as potential candidates in 1998 — but had not taken any official steps as of early January — include Assemblyman Charles "Chuck" Poochigian (R-Fresno), Assemblyman Jan Goldsmith (R-Poway) and Senator Quentin Kopp (I-San Francisco), who all say they have not ruled out a run for attorney general but are exploring other options as well.

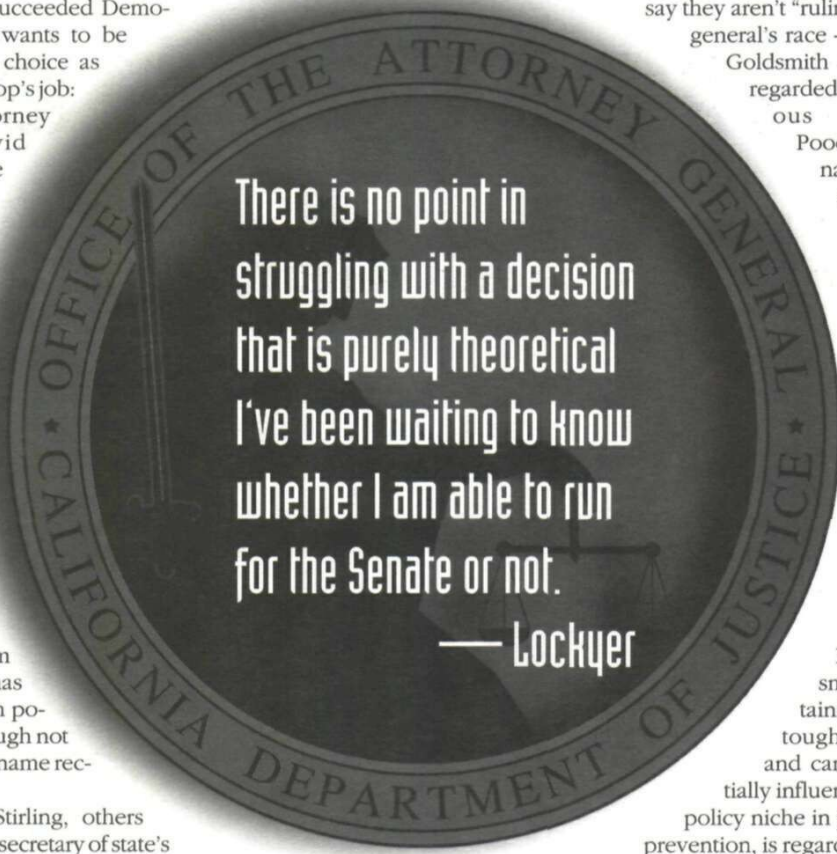
For some of the potential candidates, including the principal Democratic possibilities — Lockyer and Calderon — who have surfaced as ostensibly serious candidates, "other options" generally hinge on the outcome of legal challenges to legislative term limits. "There is no point in struggling with a decision that is purely

even tighter this last year" and that it's too early to sort out their potentially competitive political futures. "We both realize there is no point in trying to elbow each other while we are trying to manage the Senate together," Lockyer said. "These potential conflicts have a way of working themselves out."

On the Republican side, the other two legislators facing term limits who say they aren't "ruling out" an attorney general's race — Poochigian and Goldsmith — are not widely regarded as potentially serious candidates.

Poochigian, who was named one of two *California Journal* "Rookies of the Year" in 1996 and is not termed out until 2000, is a prodigious GOP fund raiser and is well-liked on both sides of the aisle. It is more likely he would run for the Senate seat of termed-out Senator Ken Maddy (R-Fresno). Goldsmith, while maintaining a high-profile, tough-on-crime stance and carving out a potentially influential legislative and policy niche in juvenile crime and prevention, is regarded in some circles as a loner with a penchant for backing odd causes — including a much-publicized campaign to bar Mexican children from walking across the border to go to school and a bill to legalize ferrets as pets. A former mayor of Poway, near San Diego, he lacks Poochigian's fundraising base and executive-branch credentials (Poochigian was an appointments secretary to governors Deukmejian and Wilson). Kopp, who has periodically expressed interest in the attorney general's job, said he was leaning toward returning to full-time law practice, but said he will make a decision in June on whether to throw his hat in as an independent.

Ultimately, the outcome of legal challenges to term limits, as well as new restrictions on campaign spending imposed by Proposition 208, passed by



theoretical," said Lockyer. "I've been waiting to know whether I am able to run for the Senate or not. If I can, there is one set of choices available. If I can't, there is a different set of choices. This [the Legislature] is the work I've done for two decades."

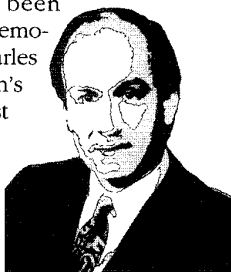
Calderon, who has been widely mentioned as a candidate for the Democratic nomination, is doubtless struggling with the same dilemma. He declined to be interviewed for this article, citing holiday scheduling pressures, but said in January he would be available for an interview in "about a month." If term limits are upheld, both his and Lockyer's Senate careers end in 1998. Lockyer told the political newsletter *Political Pulse* last November that his friendship with Calderon has "gotten

voters in November, could radically impact the actual candidate list. "There are a lot of people thinking about the race who are not [generally] known right now," said one source. With those decidedly amorphous caveats about a race nearly two years away, here are brief profiles of the major candidates, declared and semi-declared (alphabetically, Democrats go first):

### Charles "Chuck" Calderon.

Much has been written about Democratic Senator Charles "Chuck" Calderon's longtime interest in running for California's politically coveted job as the state's top law enforcement official, but he declined to be interviewed for this article — he was, in fact, the only one of the four most frequently mentioned attorney general candidates who didn't have time for an interview. A resident of Whittier and a graduate of California State University, Los Angeles, and the University of California-Davis School of Law, the 47-year-old Calderon has actively practiced law as well as made it, serving as a deputy city attorney in Los Angeles, and remains a partner in the Los Angeles law firm of Burke, Williams and Sorenson. He was elected to the Assembly in 1982, to the Senate in 1990, and represents the heavily Latino 30th District, which runs from Huntington Park on the West to Whittier on the east and from Montebello on the north to Norwalk. He has served as chair of the Latino Legislative Caucus and is currently Senate majority leader as well as chairman of Senate Judiciary. He was born in East Los Angeles, fought to avoid the street gangs endemic to the area and identifies strongly with his constituents' working-class roots. He is also known for his participation in the so-called "gang of five" — upstart young assemblymen who in 1989 sought to overturn the speakership of Willie Brown.

Calderon includes a long list of criminal justice and equal rights measures in his resume of successful legislative and policy initiatives, but has more recently become known for his aggressive — and some say intensely personal — positions favoring fathers'

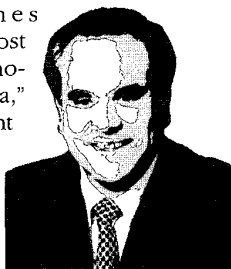


rights in custody disputes. Partly the result of a nasty divorce and custody battle, in which he fought for joint custody of his two young sons, Calderon's generally dependable support for women's rights measures has, according to women's groups, become less assured. A July 1996 profile in *California Lawyer* magazine quoted several women's rights advocates as baffled by Calderon's occasional polemics on men's rights. "He's hostile to women, and he's convinced the courts are biased against fathers," said one. "Now he's become the guru of the fathers' rights movement." Another called a Calderon analysis of a bill by fellow Democratic Senator Leroy Greene (D-Sacramento) an "absurd tirade" over a measure mandating gender-bias training for court-appointed child custody evaluators. Calderon later told *California Lawyer* that his problems with the bill hinged on "the fundamental question of why... plumbing should determine if you're a better person."

While Calderon admits that his own custody battle has colored his view of court-ordered custody arrangements, he insists he remains committed to women's issues but is concerned about the shrinking role of fathers in the lives of many families. "When did we lose respect for what the father contributes to the home?" he asked *California Lawyer*. A proven fund raiser, he also told the magazine that he estimates he's raised more than \$2 million since 1982 and contributed more than \$150,000 annually to fellow Democrats. "The question," the article concluded, "is whether the guru will be able to win converts beyond his congregation of angry fathers."

### Bill Lockyer.

Sometimes called "the most powerful Democrat in California," Senate President pro Tempore Bill Lockyer (D-Hayward) would probably rather stay in the Legislature, where he has worked much of his adult life, carving out a formidable reputation as a Democratic fund raiser, a highly articulate, occasionally sharp-tongued, knowledgeable and seasoned



lawmaker of prodigious negotiating skills — and periodically prone to nasty outbursts of pique. The 55-year-old Lockyer says he's "matured" over the years, mostly reined in his legendary temper and no longer makes reportedly unwanted passes at women — another reputed character flaw which he says came out of his active single years as a young assemblyman with the usual appetites. Given the fact that some of his colleagues aren't immune to the same impetuous behavioral traits, it's unlikely those mostly old stories would impede a bid for statewide office, albeit one of a decidedly sober mien.

For his part, Lockyer says he is ideally suited to be attorney general — if he decides to run. "My expertise and interest are appropriate for that job," he said of the '98 attorney general's race. "I've been very active in the areas of criminal and civil law for a decade and a half or longer. I chaired [Senate] Judiciary for a long time. I've written lots of criminal and civil statutes." Although all of the potential candidates for attorney general are lawyers, some have more experience in practice than others. A former teacher and school board member, Lockyer has a teaching credential from CSU-Hayward and earned his law degree while a legislator, taking night classes at McGeorge School of Law in Sacramento for seven years. He says he briefly practiced criminal law in Alameda County — "probably more [practice] than Lungren when he became attorney general." While the attorney general's better-known responsibilities include a wide range of criminal and civil law and investigative support to local law enforcement, Lockyer says the role of the attorney general also is that of a "policy activist."

"The A.G. can be a narrow job," he said, "depending on who occupies the office. I would hope to be an A.G. in the way Jesse Unruh was treasurer, to make the office a richer, fuller, more aggressive operation." Somewhat vague on the details, he has told reporters he would like to see a change in an office which, as he told *Political Pulse*, under the current administration has become "a bully pulpit for law and order speeches [without] much improvement in law and order administration. The general philosophy has been anti-choice and uninvolved in environmental and consumer protection — concerns I would hope to add some new emphasis to."



### Michael Capizzi.

As district attorney of one of the most influential — and financially troubled — counties in California, Orange County District Attorney

Michael Capizzi is fairly well-known outside his home territory, but his name may not translate into votes, or campaign cash. With hard-nosed prosecutions of major political figures in this very conservative, well-monied county, Republican Capizzi has not endeared himself to the reigning GOP power structure, and many question his ability to raise the money needed to wage a statewide campaign. His first major fundraiser, in fact, was not in the GOP bastion of Orange County, but in Beverly Hills, at the home of the sister of a long-gone Republican political luminary, controversial record company executive Mike Curb, who was California's lieutenant governor from 1979 to 1983. "I think he is going to have a very difficult time," Republican consultant Mark Thompson told the *Los Angeles Times* about Capizzi's chances for the nomination. "The rank-and-file members of the Republican Party — the activists, the legislators — are not going to put their names on the dotted line for him."

Capizzi, 57, has been the county's top prosecutor for seven years and a prosecutor in the office for more than three decades — experience that puts him ahead of those others in the race with less courtroom expertise. Known as a tough prosecutor, Capizzi has prosecuted numerous public corruption cases over the years, including the highly controversial recent prosecutions of two Orange County supervisors for alleged misconduct in the county's much-publicized bankruptcy. A state appeals court judge last November dismissed those charges with a stinging, 23-page opinion by Justice Edward J. Wallin, who sharply rebuked the D.A.'s office for its handling of the prosecutions of Supervisors William Steiner and Roger Stanton. In another case, Capizzi prosecuted Assemblyman Scott Baugh (R-Huntington Beach) for alleged felony election fraud, and refilled the charges after most of them were thrown out. Capizzi's actions have enraged the conservative GOP political

establishment in Orange County. "The word is out that he is considered to have hurt the party apparatus," Doy Henley, chairman of the Lincoln Club of Orange County, the fund-raising arm of the local GOP, told the *Orange County Register* in December. "I don't know anyone who wants to help the guy."

Capizzi, who is president of the California District Attorneys Association and appears to have broad support among the state's top prosecutors, is remarkably sanguine about the Orange County GOP tempest. "I haven't formally announced the candidacy," he said, "but I'm very, very serious about it, and I have a lot of endorsements — 44 elected district attorneys, including 37 who have said I could use their names publicly, 17 elected sheriffs, dozens of police chiefs, and a number of attorneys and business people in the county."

Cautious in his assessment of party opposition to his candidacy, Capizzi said: "I don't want to categorize them [critics] other than misguided. There is a small group that has been vocal in their criticism of those cases. They are also the most vocal and adamant that we investigate [alleged election fraud] in the 46th Congressional District." Capizzi's office is jointly investigating with the secretary of state, deposed Republican Robert Dornan's vitriolic election fraud allegations against Democrat Loretta Sanchez. "There is some inconsistency in the position of those critics, some might even suggest hypocrisy."

"I've described myself as an equal-opportunity prosecutor," Capizzi added. "It has been our experience that when you prosecute people in elected positions, they engage in rhetorical attack on the prosecutor. We've got a long history of prosecuting those types of violations. You take those attacks in stride and work toward an orderly resolution of those cases. . . I'm a career prosecutor, not a career politician."



### M. David Stirling.

At this point in the long-range plans for the '98 attorney general's campaign, Chief Deputy

. . . I'm a career prosecutor, not a career politician.  
— Capizzi

Attorney General Dave Stirling's major problem seems to be getting his last name spelled correctly. Newspaper accounts, which are increasing as the field of candidates begins to gel, often misspell it as "Sterling" and, more often than not, completely ignore the "M," which stands for Moses. The lack of recognition may prove prophetic. Despite his years of public service — first as an assemblyman from southeast Los Angeles County from 1976-1982, general counsel to the state Agricultural Labor Relations Board from 1983-89, a Sacramento Superior Court judge appointed by Deukmejian in 1989, chief deputy to Attorney General Dan Lungren since 1991 — Stirling's most recent work as the attorney general's top manager has been more behind the scenes than directly in the public eye, which could be a liability to a statewide candidacy.

But Stirling, 56, also has the distinct advantage of starting his campaign early, having the front-running support of the current incumbent, the likely Republican nominee for governor, and having already amassed a big-name list of endorsements, including judges and other prominent lawyers, legislators and law enforcement officials. His hands-on legal experience is extensive and varied, including 10 years in private practice in Southern California after graduating from Tulane University School of Law in New Orleans, in 1965. In the Assembly, he served on the Judiciary and Criminal Justice committees, and frequently carried criminal justice legislation for then-Governor Deukmejian. He is generally well-liked in the attorney general's office, respected for his administrative and legal skills, although some local prosecutors reportedly have disagreed with a "too-

friendly" approach to business and industry regulation.


Stirling recognizes Capizzi's popularity among local prosecutors but essentially sees his prosecution of Supervisors Stanton and Steiner as an abuse of prosecutorial discretion. "To go after sitting supervisors in a criminal prosecution I find to be not the kind of mentality that one would want to have in the office of attorney general," he says, choosing his words carefully. "I would have at least considered perhaps a civil review." Calling himself a "thoughtful conservative" with a libertarian streak, he defends his approach to industry and business regulation with a similar philosophical view: "One of my main areas of concern is the enormous power that government has to come down on an individual or a business enterprise. . . . Government can be overbearing, excessive and abusive. There are a lot of people concerned about the power of government and I'm not talking just about fringe groups."

He said he is reluctant to use the power of the state — as he says some local prosecutors have pressed him to do — to take what he regards as excessively forceful action against businesses or individuals. He says that view is not contrary to a strong consumer protection stance in the attorney general's office, which has long been known for its active consumer law section through several administrations, including Lungren's. "I believe in consumer protection, absolutely," said Stirling.

The father of a three-year-old daughter by his second marriage, Stirling also has two grown sons, one a Los Angeles County prosecutor, the other a high school English teacher going to law school. Long known for his conservative, get-tough approach to crime, including juvenile crime, Stirling appears to be moving toward the increasingly popular view that early crime prevention should at least be an equal partner, if not the primary factor, in deterring later violent crime. He says his post-legislative years as a family court judge, where he saw first-hand the effects of family discord and violence on children, have tempered his views. "And, at my age, having this little girl, that also affects how I see the kind of world she will have down the line. . . ."

"I believe in tough crime measures, in three strikes," he says. "But we

have to a degree lost a substantial portion of one generation, and I'm not sure we can deal with some of the young thugs who are coming through, at younger and younger grades — and at least that many selfish, irresponsible fathers who have birthed those children. It is a rare situation where they [the children] have a chance. There isn't enough money, enough revenue that government can ever have to address these problems."

Like others before him, Stirling sees the attorney general's office as a bully pulpit to effect social as well as legal change. "We can have the toughest laws, the toughest prosecutors, the toughest judges. But the fact is that until we begin to change cultural attitudes that bring about violence and lawlessness and lack of respect for each individual, we are going to continue to be in fear of what's going on out there." 

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