

SJR

5

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: April 28, 1996

FURTHER REFERRALS:

Date of Committee Action: 5/1/96

The JUDICIARY Committee considered:

CSSSS,IR 5(RLS)

CS FOR SPONSOR SUBSTITUTE FOR SENATE JOINT RESOLUTION NO. 5(RLS)

CRIME VICTIMS RIGHTS CONSTIT AMDMT

Supporting an amendment to the Constitution of the United States establishing the rights of victims of crimes.

recommends it be replaced the same title
with the following committee substitute _____ a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) Senate Rules (4-25-96)

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Brian D. Porter</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE Brian Porter

104TH CONGRESS
2D SESSION

S. J. RES. 52

Proposing an amendment to the Constitution of the United States to protect the rights of victims of crime.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 1996

Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. HATCH, and Mr. CRAIG) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States to protect the rights of victims of crime.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled (two-*
3 *thirds of each House concurring therein), That the follow-*
4 *ing article is proposed as an amendment to the Constitu-*
5 *tion of the United States, which shall be valid to all intents*
6 *and purposes as part of the Constitution when ratified by*
7 *the legislatures of three-fourths of the several States with-*
8 *in seven years after the date of its submission for ratifica-*
9 *tion:*

1 "ARTICLE —

2 "SECTION 1. To ensure that the victim is treated with
3 fairness, dignity, and respect, from the occurrence of a
4 crime of violence and other crimes as may be defined by
5 law pursuant to section 2 of this article, and throughout
6 the criminal, military, and juvenile justice processes, as
7 a matter of fundamental rights to liberty, justice, and due
8 process, the victim shall have the following rights: to be
9 informed of and given the opportunity to be present at
10 every proceeding in which those rights are extended to the
11 accused or convicted offender; to be heard at any proceed-
12 ing involving sentencing, including the right to object to
13 a previously negotiated plea, or a release from custody;
14 to be informed of any release or escape; and to a speedy
15 trial, a final conclusion free from unreasonable delay, full
16 restitution from the convicted offender, reasonable meas-
17 ures to protect the victim from violence or intimidation
18 by the accused or convicted offender, and notice of the
19 victim's rights.

20 "SECTION 2. The several States, with respect to a
21 proceeding in a State forum, and the Congress, with re-
22 spect to a proceeding in a United States forum, shall have
23 the power to implement further this article by appropriate
24 legislation."

○

4/22/96

OP-ED

The Washington Times

Why victims need a Bill of Rights

By John Kyl

In July 1974, on a road just outside Flagstaff, Ariz., Patricia Pollard was silenced—first by an attacker, and then by the judicial system.

A man named Eric Mageary raped and beat her, broke her jaw and choked her. He ripped the top off a beer can and used the jagged edge to inflict nearly mortal wounds. The police deputy who arrived on the scene said it was the most brutal attack he had ever seen.

Patricia was left to die by the side of the road that night. But this remarkable woman survived the brutal attack. She endured a long hospital stay and months of rehabilitation. Mageary was caught and convicted.

If given the opportunity, Patricia would have wanted to tell the judge about the crime, about how dangerous Mageary was, and how a long prison sentence was needed to protect the community from this vicious criminal.

But Patricia was not given the right to be heard at the time of Mageary's sentencing; indeed she was not even told about the proceeding.

Years later, still 10 years shy of serving his minimum sentence, Mageary was paroled—again without notice to Patricia. Fortunately, his parole was soon revoked for serious narcotics violations and he was back in prison.

In 1990, something happened that finally gave Patricia a chance to be heard.

Victims across our state joined with the business community and law enforcement to propose the

strongest constitutional rights for crime victims in the country. In the face of opposition from judges and criminal defense attorneys, the people of Arizona overwhelmingly voted to amend the state constitution to add the Victims' Bill of Rights. The amendment established that victims have the right to be informed, present, and heard at important stages in their case. No longer would Arizona victims be

It would ensure that victims are treated with fairness, dignity, and respect.

treated as mere pieces of evidence for the convenience of the state—forced to remain silent, or denied access to the courtroom on the day of trial, or caught off guard when their attacker is released from prison.

Or so supporters of the amendment thought. Incredibly, in 1993, the Arizona Board of Pardons and Paroles, again without notice to Ms. Pollard, granted Eric Mageary a release to "home arrest." Because of the Victims' Bill of Rights in the Arizona Constitution, Patricia was supposed to be informed of the hearing and given the opportunity to be heard, but the Board ignored the law.

The matter was brought to the attention of Gov. Fife Symington, and he started a chain of events that included filing a lawsuit to stop Mageary's release and ensure Patricia's rights would be protected. With just hours to go until Mageary was scheduled to be set free, the Arizona

Court of Appeals stopped the release. The Court said Patricia's state constitutional rights to notice and due process had been violated, and it ordered the Board to hold another hearing. After listening to Ms. Pollard tell her story, the Board finally understood the horrible trauma of Mageary's crime, and kept him behind bars.

Sadly, while the rights of crime victims in Arizona are now protected, crime victims across America are still slighted by the system. That is why we are initiating a proposed amendment to the U.S. Constitution to extend to victims throughout the country a threshold of basic fairness. The amendment will be unveiled in Washington today at the start of National Crime Victims' Rights Week.

The proposed Victim's Bill of Rights will restore balance to our justice system. It will not infringe upon or diminish any constitutional right now enjoyed by a person accused of or convicted of a crime. But it would reform, once and for all, a system that ignores victims. It would ensure that victims are treated with fairness, dignity, and respect by protecting fundamental rights to be informed, present and heard at all the important stages of a case. It would establish for victims the right to a speedy trial, a final conclusion free from unreasonable delay, full restitution when possible, notice of any release or escape of an offender, and reasonable protection from the defendant. Most importantly, it would ensure that victims are given notice of each of these rights.

These basic, yet profound, ideas will restore integrity to the justice system at a time when many Americans have all but lost faith in the promise of "justice to all." Without constitutional safeguards, Ms. Pollard would still be choked by silence by the law. For the hundreds of thousands of victims like her around the country, the chokehold must be broken. Victims must be given a voice—not a veto, but a meaningful opportunity to stand and speak for justice and the rights of the law-abiding in our communities.

Cinderella

Here we go again. This week we dust off our computers, make our factions look cozy and comfy, p engines in the firehouse at our daughters to come in an us work.

It's the fourth annual "Daughters to Work Day," so



Suzanne Fields

for April you're w about beir pink-slip d o w n s you're pr safe for or day on when daughter between y your boss. the boss o be esp pleasant brings

daughter to the office, too. Every year, we hear prote: the mothers of sons — or of s daughters — and lots of squ. at home between siblings t the girls get a day off from and the boys don't. This ho sponsored by the Ms. Four an organization eager to s Citadel and the Virginia M Institute teach co-eds the killing people and breaking But integrating girls and l mommy's work-place is a nc

Last year, the Ms. Four prepared "information kits" little girls that femininity gerous for their health: "Ma give up the struggle for au relationships and pursue th nine ideal — of being kind ar of swallowing their anger, o scfless — at great cost to th chological health." (Have the

Suzanne Fields, a colum The Washington Times, is na syndicated. Her column appe Monday and Thursday.

Queen for a lifetime

By David Pitts

Yesterday, Elizabeth II, by the Grace of God, Queen of the United Kingdom and Northern Ireland, Head of the Commonwealth and Defender of the Faith.

mous mistrust of the foreigners across the English Channel. There is a much warmer feeling — for cultural and historical reasons — toward the people of the United States across a much larger Atlantic.

In 1996, the queen looks out on a

the breakup of the United Kingdom itself. The queen once traveled in Britain with minimal protection, but she now is surrounded by an elaborate security apparatus, recently beefed up in the wake of the IRA bomb attacks in London earlier this year.

As if that were not enough, the queen, at 70, reigns over a nation with very different values than the traditional beliefs still cherished

Mother

By Eric Peters

As we snuggle up to A Earth today, it's fitting. A notice of a particularly bit of government abnoxio: that comes to us

A Bill of Rights for Crime Victims

How shocking it would be to describe a criminal justice system in which a defendant had no constitutional right to be treated fairly, no right to information about the progress of the case, no right to notice of when critical proceedings would be held, no right to be present and heard at those proceedings, and no right to a speedy trial or reasonable finality to the matter—in short, no constitutional rights at all. Yet this precisely describes the plight of a victim of crime. While the Bill of Rights enumerates extensive rights for criminal defendants, it contains not even a single word on behalf of crime victims.

Rule of Law

By Paul G. Cassell
And Steven J. Twist

On Monday a bipartisan group of senators and congressmen introduced a constitutional amendment that would extend these basic rights to crime victims. The Victims' Bill of Rights Amendment would bring balance to a system whose scales of justice are tipped decidedly in favor of the accused.

How did we arrive at a system that gives so little consideration to the interests of victims? The problem is traceable to the peculiar evolution of the office of public prosecutor. The first colonists imported the English common law tradition of private prosecutions, which gave the victim of a felony the right to initiate and prosecute a criminal case against the offender. The Framers of the Constitution probably saw little need for separate "victims' rights" because victims could act on their own.

Over time, public prosecutors gradually displaced the system of private prosecutions. While the reasons for this

transformation are disputed, the undeniable effect was to exclude crime victims from meaningful participation in the criminal justice process. They lost any status as parties to the case. Their primary role became to report crimes to police and serve as witnesses if called. Meanwhile, it became accepted that prosecutors represented only the public interest, not the victims' interest.

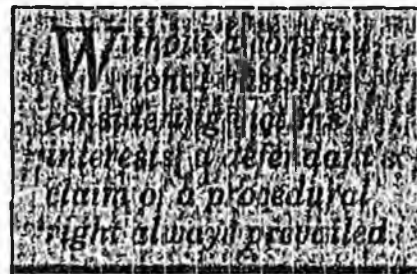
This imbalance was exacerbated in the 1960s, when the Warren Court expanded the rights of criminal defendants and constitutionalized most aspects of criminal procedure. Trial judges who had previously accommodated victims' concerns informally within their courtrooms now found they had to follow prescribed formulas. Without a constitutional basis for considering victims' interests, a defendant's claim of a procedural right always prevailed. The court's one-sided expansion of defendant's rights slid victims out of the picture.

These developments leave us with a criminal justice system that pays scant attention to victims. Often victims do not even find out about critical proceedings, such as hearings about releasing a defendant on bail or allowing him to cop a plea to a reduced charge. When victims do learn about these proceedings, they frequently have no right to speak about why releasing the defendant is a bad idea or why the proposed plea bargain is undesirable. In many trials, victims are told that while the defendant is entitled to be present, they must leave the courtroom and sit outside in the room reserved for witnesses. Even after the conviction of the defendant, victims have often been denied the right to speak at sentencing or parole hearings.

Every year, 43 million Americans are the victims of violent or property crimes. The need for constitutional protection of their rights was first recognized by the

President's Task Force on Victims of Crime, whose 1982 report concluded that "the criminal justice system has lost its essential balance." The Task Force proposed a constitutional amendment guaranteeing crime victims the basic rights to be present and heard at critical stages of the proceedings.

Since that recommendation, more than 20 states have adopted victims' amendments. In 1994 alone, voters in Alabama, Alaska, Idaho, Maryland, Ohio and Utah gave their overwhelming approvals. While the amendments vary in



form and effect, they have generally improved the treatment of crime victims throughout the criminal justice process. The federal Victims' Bill of Rights Amendment would draw upon the successful experience with the state amendments and require protection for victims under the federal Constitution.

The core of the amendment would guarantee victims of violent and other serious crimes the rights to be informed of and to attend court hearings. At proceedings concerning bail, plea bargains and sentencing, victims could speak—not to dictate the court's decision but to suggest what the decision should be. The amendment also would guarantee victims protection, including the right to a warning if a defendant escapes from custody.

The amendment would further grant victims a right to a speedy trial. Defendants have always had such a right but

are often the only ones with no interest in seeing it enforced. Victims also deserve an end to interminable delays in capital and other cases. The defendant's right to appeal should be protected, but under the amendment courts would be required to rule finally and without unreasonable delay.

While victims have won many state legislative victories in recent years, the overall protection of their interests is piecemeal and inadequate. A federal amendment would establish a basic package of victims' rights, a floor below which states could not go and which defendants could no longer automatically trump. Victims' rights, no less than defendants' rights, would apply in state proceedings under current constitutional doctrine, because the rights would be incorporated into the 14th Amendment's nationally applicable guarantees of due process of law. This works no new violence to the important value of federalism. Rightly or wrongly, the Supreme Court has already federalized many aspects of criminal procedure and extended substantial rights for defendants throughout country. The proposed amendment simply adopts the view that victims deserve equal treatment.

A 1991 national public opinion poll found that 83% of Americans would support an amendment to their state constitution guaranteeing victims' rights. In recent years, state voters have given such amendments approvals as high as 92%. The American public recognizes what many criminal justice professionals seem to ignore—that the system must protect the rights of victims, too.

Mr. Cassell, a professor at the University of Utah College of Law, and Mr. Twist, a Phoenix attorney, are on the executive board of the National Victims' Constitutional Amendment Network.

Victims'-rights amendment proposed

Bipartisan bloc introduces bill

ASSOCIATED PRESS

Victims of violent crime would have the right to speak at the sentencing of their attackers and would be protected from intimidation under a constitutional amendment proposed yesterday.

Three lawmakers — Sens. Dianne Feinstein, California Democrat, and Jon Kyl, Arizona Republican, and Rep. Henry J. Hyde, Illinois Republican and chairman of the House Judiciary Committee — introduced the amendment to mark National Crime Victims' Rights Week.

"This year, 43 million Americans will be victimized by serious crime," Mr. Kyl told a news conference.

Mrs. Feinstein said that while accused criminals "have all kinds of basic rights guaranteed," such as the rights to remain silent when arrested and to a speedy trial, victims "have no rights at all."

The lawmakers cited a Justice Department survey indicating that crime costs Americans at least \$450 billion a year, including factors such as legal fees, lost work time and the cost of police.

The proposed amendment would give victims the right:

- To be present at significant legal proceedings in the offender's case and to speak at sentencing, including the right to object to a previously negotiated plea or to the offender's release from custody.



Sen. Dianne Feinstein and Rep. Henry J. Hyde announce the victims'-rights legislation on Capitol Hill.

Photo by Jessica Pearson/The Washington Times

- To be informed of any release or escape of the criminal.

- To a speedy trial of the alleged attacker.

- To full restitution from convicted offenders. An anti-terrorism bill passed by Congress last week, which President Clinton has said he will sign, requires such compensation.

- To "reasonable measures" to protect them against further violence or intimidation by accused or convicted offenders.

For an amendment to become part of the Constitution, 290 House members and 66 senators must vote for it and 38 state legislatures must ratify it.

Mrs. Feinstein noted that 20

states, including California, have passed their own victims'-rights amendments. But only an amendment to the U.S. Constitution, she said, "can ensure that all victims of serious crimes are treated with fairness, dignity and respect."

The Senate Judiciary Committee plans a hearing on the amendment today.

WASHINGTON Times 4/23/96

Clinton should withdraw court nominee, Dole says

ASSOCIATED PRESS

25-year career as a litigator," White

DIAMONDS FOR LOAN
Diener Jewelers Ltd.
(202) 452-1919 • (202) 872-1710
1700 MS. NW. DC

General Service Administration

• Multi Speed CD Rom • Local/National Ver
• 450 & Perium Dynamic • Brand Name Soft

ALL SHOWS: 10am - 4pm SAVE \$
per Coupon) Admisk
PG Fast™ Computer Shows
http://v



313 cameron street
old town
alexandria, va 22314
703-549-0040
long distance
1-800-695-0041

major credit cards

open mon - sat 10am - 6pm
sundays noon - 5pm

**voodoo influence
haitian art
exhibition
thru april**

- metal sculpture
- sequin banners
- spirit dolls

parking available across
the street at city hall
parking lot.

VICTIMS' RIGHTS
CONSTITUTIONAL AMENDMENT
(S.J. Res. 52)

- Introduced on April 22
- Senate Judiciary Committee held a full committee hearing on April 23
- Feinstein and Hatch are original cosponsors
- Henry Hyde is House sponsor

The amendment is supported by major national victims' rights groups:

- * Mothers Against Drunk Driving (MADD)
- * Parents of Murdered Children
- * National Organization for Victim Assistance
- * National Victim Center
- * National Victims' Constitutional Amendment Network
- * National Center for Missing & Exploited Children
- * Victim Assistance Legal Organization
- * Doris Tate Victims Bureau
- * Citizens for Law and Order

United States Senate

SENATOR JON KYL

Facsimile Cover Sheet

Date: _____

Total pages, including cover: 7

To: KAREN BRAND

From: Jon Kyl _____	Ted Maness _____
Tom Alexander _____	Dan Ciechanowski _____
Colleen Deegan _____	Jeanine Esperne _____
Elizabeth Flessner _____	Tim Glazewski _____
Glenn Hamer _____	Liz Hickey _____
Stephen Higgins <input checked="" type="checkbox"/> _____	Julie Johnson _____
Kathleen Leavenworth _____	Elizabeth Maier _____
Lori Payne _____	Tricia Polen _____
John Ragan _____	Peggy Reizes _____
Sherry Reichel _____	Greg Smith _____
Sara Waddington _____	Lauren Weiner _____
Ashley Winkler _____	Other _____

907/465-6595

Comments: DON'T HESITATE TO CALL IF YOU NEED ANYTHING ELSE.

United States Senate, Washington D.C. 20510-0304
Telephone Number: (202) 224-4521
Fax Number: (202) 228-1239
Please call if there are any transmission problems.



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

SPONSOR STATEMENT - CS SS SJR 5 (RLS)

**Supporting an Amendment to the Constitution of the United States Establishing
the Rights of Victims of Crimes**

CSSS SJR5(RLS) supports an amendment to the Constitution of the United States establishing the rights of victims of crimes. CSSS SJR5(RLS) requests the Congress of the United States support and submit to the states an amendment to the Sixth Amendment to the US Constitution addressing victims' rights.

In a 1982 final report of the President's Task Force on Victims of Crime to President Ronald Reagan, the US Department of Justice recommended the following language to amend the US Constitution to address victims' rights:

"the crime victim has the right to be present at all criminal proceedings where the accused has the right to be present and the victim has the right to be heard, upon request, at sentencing, before or after conviction, and at any proceeding where the accused's release from custody is considered."

A fairer criminal justice system that establishes rights of victims of crime has become a national bi-partisan effort and the Alaska legislature has an opportunity to help balance the scales between rights of criminals and rights of crime victims on a national level by passing CSSS SJR5(RLS).

The United States criminal justice system has not provided adequate protection to victims of crime. There has been more emphasis on the rights of criminals to ensure due process than the rights of victims of crime. The innocent, honest, and helpless are first victimized by the criminal, and then again in the criminal justice system. The US Constitutional Amendment supported by CSSS SJR5(RLS) helps return a balance of fairness to our federal criminal justice system.

If you have further questions, please contact myself, or Karen Brand of my staff at 3892.

DD/kb

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-1648

MEMBER: Senate Finance Committee • Senate State Affairs Committee

Printed in House

FISCAL NOTE

No. 1

**STATE OF ALASKA
1996 LEGISLATIVE SESSION**

Bill Version: SSJR 5

(S) Publish Date: 4-26-96

Revision Date: April 25, 1996 Dept. Affected: _____
 Title: Crime Victim Rights BRU: _____
Constitutional Amendment Component: _____
 Sponsor: Donley _____
 Requester: _____ COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY96) cost: \$ 0

POSITIONS

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

Prepared by: M. Gore
 Division: Senate Rules Committee
 Approved by Commissioner: Mike Miller Chair
 Agency: Senate Rules Committee

Phone: 465-3770
 Date: 4/25/96
 Date: 4/25/96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

Telephone: (907) 522-6233
FAX: (907) 522-6234



Mothers Against Drunk Driving

Anchorage Chapter
615 East 82nd Avenue, Ste. B 1
Anchorage, AK 99518-3157

19 April 1996

Senator Robin Taylor
Chair, Senate Judiciary Committee
State Capitol Building
Juneau, Alaska 99801

Dear Senator Taylor:

On behalf of the MADD - Anchorage Board of Directors, staff and our general membership, I urge you to schedule SS SJR 5 for hearing at the soonest opportunity.

Let there be no doubt we fully believe in and support our national philosophy and constitutional right to the assumption of innocence until proven guilty. However, we also firmly believe that in establishing myriad procedures and laws ensuring that right, the victims of criminals have largely been overlooked or forgotten. Surely the innocent victims have as much right to be seen and heard as do those who have been charged with a crime!

Again, please schedule SS SJR 5 for hearing immediately so that Alaska has a chance to join other humanitarian states calling for the appropriate constitutional amendment.

Sincerely,

Palmira Santos
President



PRESIDENT'S
TASK FORCE ON
VICTIMS OF CRIME

FINAL REPORT

DECEMBER 1982

Contents

Statement of the Chairman	iv
Victims of Crime in America	1
Recommendations for Government Action	15
Proposed Executive and Legislative Action at the Federal and State Levels	16
Recommendations for Federal and State Action	17
Proposed Federal Action	37
Recommendations	37
Proposed Action for Criminal Justice System	
Agencies	56
Recommendations for Police	57
Recommendations for Prosecutors	63
Recommendations for the Judiciary	72
Recommendations for Parole Boards	83
Recommendations for Other Organizations	87
Recommendations for Hospitals	89
Recommendations for the Ministry	95
Recommendations for the Bar	97
Recommendations for Schools	101
Recommendations for the Mental Health Community	105
Recommendations for the Private Sector	108
A Proposed Constitutional Amendment	113
Appendices	117
Appendix 1: Methodology	118
Appendix 2: Model Victim/Witness Units	121
Appendix 3: Witnesses Before the President's Task Force on Victims of Crime	126
Notes	134
Biographies	142

A Proposed Amendment to the Constitution

In applying and interpreting the vital guarantees that protect all citizens, the criminal justice system has lost an essential balance. It should be clearly understood that this Task Force wishes in no way to vitiate the safeguards that shelter anyone accused of crime; but it must be urged with equal vigor that the system has deprived the innocent, the honest, and the helpless of its protection.

The guiding principle that provides the focus for constitutional liberties is that government must be restrained from trampling the rights of the individual citizen. The victims of crime have been transformed into a group oppressively burdened by a system designed to protect them. This oppression must be redressed. To that end it is the recommendation of this Task Force that the Sixth Amendment to the Constitution of the United States be augmented.

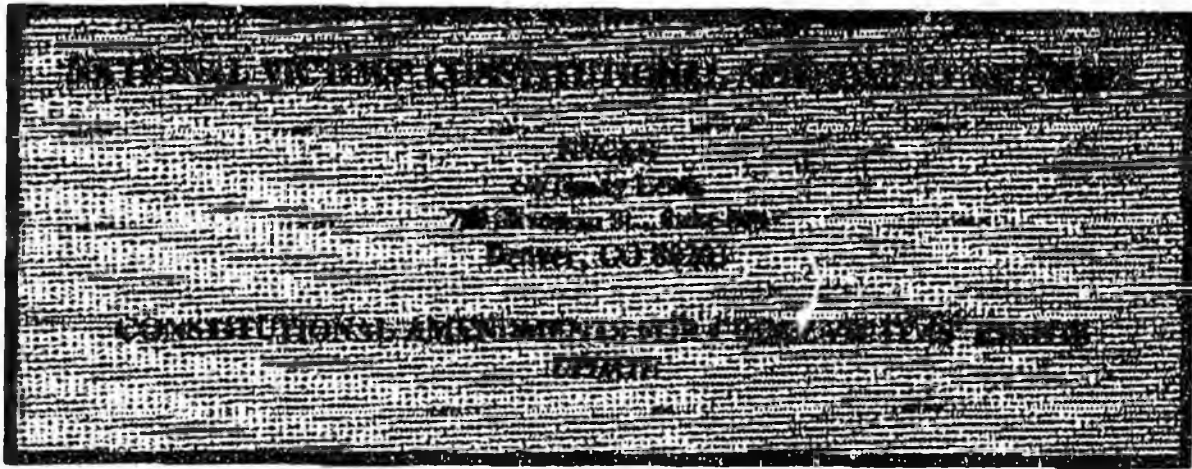
We propose that the Amendment be modified to read as follows:

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have the Assistance of Counsel for his defense. Likewise, the victim, in every criminal prosecution shall have the right to be present and to be heard at all critical stages of judicial proceedings.

We do not make this recommendation lightly. The Constitution is the foundation of national freedom, the source of national spirit. But the combined experience

They explained the defendant's constitutional rights to the nth degree. They couldn't do this and they couldn't do that because of his constitutional rights. And I wondered what mine were. And they told me, I haven't got any.—a victim

brought to this inquiry and everything learned during its progress affirm that an essential change must be undertaken; the fundamental rights of innocent citizens cannot adequately be preserved by any less decisive action. In this we follow Thomas Jefferson, who said: "I am not an advocate for frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times."



With constitutionally-guaranteed rights for crime victims now in effect in *twenty* states, victims and their supporters across the nation are experiencing a virtual "domino effect" of new states interested in passing this important legislation. In the elections in 1996, at least five states – Indiana, Nebraska, Nevada, North Carolina and Virginia – will be presenting victims' rights constitutional amendments to voters for ratification. Members of the National Victims' Constitutional Amendment Network (NVCAN) have been hard at work providing experts, resources and technical assistance to those states anticipating the introduction of the amendment, along with those currently working through the legislative process.

Strong support for the constitutional protection of crime victims' rights is evident not only in the overwhelming electorate support that ballot amendments receive from voters, but also in the public-at-large. A 1991 national public opinion poll sponsored by the National Victim Center – *America Speaks Out: Citizens Attitudes About Violence and Victimization* – found that nine out of ten Americans (89%) say that they would probably or definitely support an amendment to their state's constitution which would increase victims' rights protection. Indeed, nearly half of those surveyed (49%) said they would *definitely* support a state constitutional amendment to increase victims' rights protection.

Furthermore, a 1993 report entitled *South Carolina Speaks Out: Attitudes About Crime and Victims' Rights* found that over eight out of ten citizens of South Carolina (86%) would definitely or probably support an amendment to that state's constitution increasing the protection of crime victims' rights.

The following report highlights the status of state-by-state efforts to pass constitutional rights for crime victims.

State Constitutional Amendments Enacted

- Alabama:** Passed constitutional amendment in both houses during the summer of 1994. The amendment was ratified in November with 80% of the voters in favor of the amendment.
- Alaska:** Passed constitutional amendment in their legislature in Spring 1994. The amendment was ratified in November with 87% of the voters in favor of the amendment.
- Arizona:** After the amendment failed in the 1988 legislative session, a state coalition of victims' rights organizations began a citizens' initiative to qualify the amendment for the November 1990 ballot. The amendment received support from 58% of the voters and was passed into law in 1990.
- California:** Proposition 8 -- the *Victims' Bill of Rights* -- was ratified by voters in 1982. Among the rights granted to crime victims are the right to speak at sentencing and at parole hearings.
- Colorado:** During the 1991 National Crime Victims' Rights Week, supporters kicked off the Colorado campaign to pass a constitutional amendment. Two weeks later, the amendment had passed both the Senate and the House, and was signed by the Governor. Comprehensive enabling legislation was also passed in 1992. The amendment was ratified with support from 86% of voters in the November 1992 General Election.
- Florida:** The state legislature passed the amendment during the 1987 legislative session, which was ratified by 90% of the voters during the 1988 November General Election.
- Idaho:** Passed constitutional amendment in both house and senate in March 1994. The amendment was ratified in November ballot with 79% of the voters in favor of the amendment.
- Illinois:** House Joint Resolution Constitutional Amendment 21 was introduced during the 1990 legislative session. It failed to move out of Committee. A strong coalition succeeded in getting a new amendment introduced and passed during the 1992 legislative session. Illinois voters overwhelmingly supported constitutional rights for crime victims with 77% of the vote in the 1992 November General Election.

- Washington:* the voters in November with 68% in favor of the amendment. Submitted by Attorney General Elkenberry, the amendment was passed by the 1989 legislature and ratified by 78% of voters in November 1989.
- Wisconsin:* Legislation was introduced in 1990 and was re-introduced in April 1991, where it worked through the Senate Judiciary Committee. During the 1992 session, the bill was passed by the Senate and the House. By law, an amendment to the Wisconsin Constitution must be passed by two consecutive legislative sessions; it did so in the 1993 legislative session, and was ratified on April 6, 1993.

Amendments Passed and Pending Voter Ratification in 1996

- Indiana:* A Victims' Rights Constitutional Amendment passed the House of Representatives and Senate for the second time, as required, during the spring 1995 legislative session and will go to voters for ratification in 1996.
- Nebraska:* A constitutional amendment passed this state's unicameral legislature, and will be put before the voters for ratification at the primary election in May, 1996.
- Nevada:* A constitutional amendment received final passage by the legislature in 1995, and will be presented to voters for ratification in 1996.
- N. Carolina:* A constitutional amendment passed the General Assembly in 1995, and will be put before the voters for ratification in November, 1996.
- Virginia:* A Victims' Bill of Rights Amendment to the Virginia Constitution passed the General Assembly during the 1995 and 1996 sessions, and will go to the voters in November, 1996, for ratification.