



STATEMENT OF RICHARD M. ROMLEY
MARICOPA COUNTY ATTORNEY
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
S.J. RES. 6
CONSTITUTIONAL AMENDMENT
TO PROTECT THE RIGHTS OF CRIME VICTIMS
SUBMITTED ON MAY 12, 1997

I am very pleased to provide written testimony in support of S.J. Res. 6 which proposes an amendment to the United States Constitution to afford victims of violent crime fundamental rights. I am currently serving my third term as the elected Maricopa County Attorney, having been first elected in 1989. As the public prosecutor, I am responsible for the prosecution of felony and delinquent offenses that are committed in the sixth most populated county in the country. My Office is comprised of over 750 employees with approximately 300 Deputy County Attorneys who prosecute more than 30,000 serious crimes each year.

As the prosecutor for Maricopa County (County seat: Phoenix, Arizona), I have supported constitutional rights' for crime victims for a number of years. In the mid 80's, I served on the Arizona Victims' Rights Steering Committee which was responsible for the drafting and passage of Arizona's Victims' Bill of Rights. In 1990, more than 2/3 of Arizona's voters passed a constitutional amendment affording victims of crime in Arizona with 12 fundamental rights. Since its passage, I have instituted nationally recognized victims' rights programs in my office. I can attest from personal experience to the benefits of constitutional rights for crime victims.

I believe that a government's first responsibility is to ensure the safety of its citizens. To achieve that end, our forefathers designed a criminal justice system that is premised upon citizen involvement — as jurors or witnesses. Yet, over the past 200 years citizen involvement has been minimized and discouraged. As a result, those most affected by crime — victims — have had been silenced. They are not allowed in the courtroom during a trial, are not consulted about a possible negotiated settlement, and are not allowed to share their thoughts and recommendations regarding sentencing to the judge. It's no wonder that victims walk away from their criminal justice experience with a sense of frustration and disillusionment. If asked if they would report a crime in the future, many state "never again!"

We are facing a crisis in this nation. Citizens have lost their faith in our system of justice. Victims no longer believe that our criminal justice system will be responsive to their wishes. As a result, many citizens refuse to become involved in our system of justice by not reporting crime, by not serving as jurors, and by not testifying as witnesses.

For years, victims of crime have been treated as mere after-thoughts: expected to be there when needed but otherwise not informed, not consulted and certainly not made whole. All criminal justice professionals — police officers,

prosecutors, defense attorneys, judges — bear some responsibility for this state of affairs. Consequently, victims often feel victimized twice: once as a result of the crime and twice by a system that was initially intended to protect them. It is for these very reasons that constitutional rights are essential. The rights of crime victims not to be victimized by the criminal justice process are basic human rights, rights properly addressed in our Constitution.

Victims and their advocates have been speaking out about this injustice. Victims tell us that they participate in the criminal justice process to ensure that criminals don't commit similar crimes in the future. They don't spend hours reporting the crime to police, viewing lineups, taking time from work to appear in court to wait for hours for their own personal gain. When asked what they value most, they tell us that they want basic rights to be informed, heard, and to be present. They want to be informed of court proceedings, not find out about it after it has happened; they want the ability to participate in a meaningful way; such as by being consulted about settlements in advance, rather than discovering that the defendant has entered a guilty plea after the fact; they want the opportunity to be heard at critical junctures as a means to balance information provided by the defendant; and — most importantly — they want the opportunity to “see justice” with their own eyes, to be in court during trial and other proceedings, not forced to wait outside the courtroom to hear the outcome from others.

As a means to restore faith in our criminal justice system, I actively supported the passage of Arizona's constitutional rights for victims. Arizona's Victims' Bill of Rights affords victims with fundamental rights to be informed, to be heard at critical stages of the process, to be free to decline a pre-trial interview by the defense, to be consulted, to be present when the defendant has the right to be present, to restitution, to a speedy trial and final disposition, and to be free from harassment and intimidation. These rights have impacted our system of justice in a very positive manner, without the adverse consequences the detractors of victims' rights espoused.

During the victims' rights debate, detractors argued that such an amendment would be cost prohibitive. They predicted that such rights would bankrupt our criminal justice system. While I agree that there are costs associated with victims' rights services, those costs are minor when balanced with the benefit to our state. The citizens of Arizona voiced their opinion — affording victims' constitutional guarantees to participation is worth the expense.

My Office provides victims rights services to over 19,000 victims of felonies perpetrated by adult offenders and over 10,000 victims of juvenile delinquents. Victim Advocates provide victims' rights notification and services to help victims navigate their way through what can be an intimidating process. The costs associated with these services account for no more than 3% of my entire budget. Costs associated with victims' rights services are far less than those associated with ensuring that those accused of crime are afforded their constitutional rights.

To enhance the ability of criminal justice entities to provide victims' rights services, the Arizona legislature

adopted a funding measure to offset these costs. Every offender

who has been ordered to pay a fine must pay an additional surcharge, a percentage of which is dedicated to funding victims' rights services. As a result, more than two-thirds of the costs my Office incurs as a result of providing victims' rights services are offset by monies paid by convicted offenders.

Detractors of the constitutional amendment put forward another argument in opposition. They argued that constitutional rights for victims will result in victims of crime becoming a party in the criminal prosecution, opening the door for the victim to direct the course of prosecution, in essence creating a three party system: the State, the victim, and the accused. This has not been our experience. While victims have the right to be heard, that right does not extend to control over the proceedings. Recently, the Arizona Supreme Court ruled:

[N]either the VBR [Victims' Bill of Rights] nor the VRIA [Victims' Rights Implementation Act] gives victims a right to control the proceedings, to plead defenses, or to examine or cross-examine witnesses; the VBR and the VRIA give victims the right to participate and be notified or certain criminal proceedings. This is not the same as making victims "parties". Moreover, the Victim here is not "aggrieved" within the legal meaning of the term because the judgment of the trial court does not operate to deny her some personal property or property rights, nor does it impose a substantial burden upon her. [899 P.2d 939, 183 Ariz. 47, State v. Lamberton, (Ariz. 1995)]

S.J. Res. 6 provides victims with the right to be informed, to be heard, and to be present. It does not provide for victims to direct the course of prosecution.

More than 25 states have passed constitutional rights for victims, causing a patchwork of rights across the country. Some states have passed constitutional amendments that spell out specific rights for victims, such as that enacted in Arizona. Other states have adopted broad statements that afford victims with the "right to be treated with dignity and respect". As a result, citizens across the country do not enjoy equal protection when faced with participating in the criminal justice system as the result of a crime. The proposed amendment to the U.S. Constitution will provide uniform treatment and guarantees for victims across our nation.

As the supreme law of the land, our Constitution reflects the core values of our nation. As such, it is critical to adopt constitutional rights for victims. As we have experienced in Arizona, our nation's system of justice will be profoundly changed — to provide for balance. Constitutional rights for victims will also impact the way we think about crime and justice as a nation.

I strongly support S.J. Res. 6 which proposes an amendment to the United States Constitution to protect the

rights of crime victims. Such rights will help restore faith in our justice system by balancing the rights of those accused of crime with rights for law-abiding victims

of crime. As the public prosecutor for one of the largest prosecuting offices in the country, I urge you to pass Senate Joint Resolution 6.

Respectfully Submitted,

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