

Statement of
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Subcommittee on the Constitution
Committee on the Judiciary
United States House of Representatives
Honorable Charles T. Canady, Chairman

concerning

House Joint Resolution 64
A Proposed Constitutional Amendment for Victims' Rights

February 10, 2000

Chairman Canady and Members of the Subcommittee, I am Marlene Young, Executive Director of the National Organization for Victim Assistance, or NOVA. Thank you for inviting me to speak in support of House Joint Resolution 64, a proposed Constitutional amendment for victims' rights.

I am proud to do so as a representative of the 4,500 agencies and individuals from all across the United States who are our members, and of the Board of Directors whom they have elected to serve as trustees of the victims' movement.

Founded in 1975, NOVA is the oldest and most far-reaching organized champion of victim rights and services in what

has become a worldwide movement to bring healing and justice to crime victims. Historically, those elected to our Board represent the true strength and diversity of the victims' movement in America. As an example, among our past Presidents are two clergy members and university professors, the Executive Director of the International Association of Chiefs of Police, the founder and operator of a battered women's shelter, the founder and administrator of a rape crisis center, a founding member of the American Professional Society on the Abuse of Children, a state corrections administrator, three elected prosecutors, a state victim services administrator, and a county-based victim assistance director.

Our diverse and sophisticated Board was the first national organization in the victims' movement to endorse the adoption of a victim rights amendment to the U.S. Constitution following its proposal by the President's Task Force on Victims of Crime.

Proud as I am to speak for an institution I admire, I am also privileged to be here to represent the millions of Americans who fall victim of crime each year. Like so many in this room, I too have known the fury, the terror, and the pain of victimization. I also know the comfort that can be provided by the justice system - when it is responsive to the victims' just expectations.

It is hard to put into words the shock and disbelief that I experienced upon entering my dream home in rural Oregon in 1980 to find it had been virtually wiped clean of all my belongings. But, I can remember the law enforcement officer who arrived to say that he was sorry that everything I possessed had been stolen and that he would like to help.

I cannot fully express my fear, two weeks later, when alone in my partly-refurbished house, I observed two people, one with a handgun in his pocket, go to the side of my house and enter the same basement window that the earlier burglars had used to gain entry. Though I quietly dialed the state law enforcement agency, I knew it might take them an hour or more to get to me, so I slipped outside and banged a ladder on the wall to scare the intruders away. I was successful in my efforts, but simply to recall that event brings back tremors to my body. And, I can think back to my relief when law enforcement officers showed up to tell me that I was safe now.

It is difficult to begin to describe the pain that my husband and his family endured, and I with them, after the partial, butchered remains of his cousin were discovered buried in her Indiana garden. I can describe the room, its colors, the time of night, and the sounds of my husband, when I got the call from Aunt Mary saying her daughter was murdered. I can describe her gratitude that her nephew was able to find her help from our close friend and victim advocate, Betty Jane Spencer - herself, a survivor of the murders of four boys.

I have found few people who can identify with my rage at having my car broken into, not once or twice, but three times, and each time finding its stereo ripped out of it. It was, I should say, the first new car I had ever owned, a special possession. I often raise these three violations of my property in my training courses, remembering my screaming pledge at the time to lead a nationwide campaign to seek the death penalty for car stereo thieves - it is a joke that usually gets a chuckle. But the frustration behind it was, and remains, no laughing matter. It should be said, parenthetically, that research in the Netherlands indicates that providing victim services tends to reduce the inclination to victimize others. There is a part of me that intuitively believes that.

I have not forgotten the sadness that swept over me when I learned from my aging mother that her house had been burglarized - her door broken down and her space violated. I have not forgotten, either, the law enforcement officer who told her it was not her fault.

And I cannot express the confusion, shame, and terror I experienced when a university professor I respected sexually assaulted me in his office. The police officer I approached just after I fled the building was not sympathetic, since it was my word against somebody else's and "there was no penetration". When I later confronted my professor with his crime, he coldly told me my grades would suffer if I reported it to the university. I didn't expose it, my grades didn't suffer, and the next year, I concluded my studies 3,000 miles away.

These experiences have certainly shaped my views over the treatment of crime victims. But they have been reinforced by the constant exposure to the similar sufferings of people I have served. They can be plainly put in an emotional algorithm: fear and terror, anger and outrage, confusion and frustration, self-blame and guilt, shame and humiliation,

and horrible, endless grief.

I can report that some of the patrol officers I encountered after reporting the crimes against me treated me very well, and some treated me very poorly. None of them, however, read me my rights - because I had none. That much will change when victims have the Constitutional right to be told of their Constitutional rights. Despite the distresses endured at the hands of criminals, I know that the system can work better. Again, it is my memory which serves to tell the story.

An elderly woman, Joan Crayten, in Multnomah County who was a victim of a horrible rape and robbery in her home told me as much over twenty years ago. She talked of the sexual assault and the loss of her safe place - her home. But, she was allowed to attend the trial of the assailant and to speak at sentencing - courtesy of the persuasiveness of the then-District Attorney, Harl Haas. She had a person at her side when she went to court, and she was able to tell the court of her shame and her ability to survive. In that day and age, I can say, she was exceptional - and lucky. Today, I can say that her experience *should* be unexceptional, but it is not.

Just within the past two weeks, our office received a copy of a letter published in the Sumpter (Georgia) Free Press. It reads in part:

I write this letter as a victim, not only of the person who violated me but as a victim of a system gone bad... I was sexually battered here in Sumter County. I chose to press charges. Several days after the arrest and release of the accused, I received a packet from the court which included a list of my rights as defined by Georgia State law. I should have received this information from [the detective] the day I gave my statement. Georgia Law states that the investigator will provide the victim with a copy of Georgia Victims Bill of Rights in plain English upon initial contact.

My general rights as a victim, which I DO NOT have to request are as follows:

- 1) You, the victim, have the right to be notified of the arrest of the accused. This notification generally comes from the investigating authority. (I was.)
- 2) You, the victim, have the right to be notified of any proceedings where the release of the accused will be considered. This notification generally comes from the prosecuting attorney. (I was NOT.)
- 3) You, the victim, have the right to be notified of the release of the accused. The notification will come from the custodial authority. (Again, I was NOT.)

I do not write this as an attack on any one person but rather as criticism on "the system" or the lack thereof in this area. Victims are everywhere and we have the right to be protected under Georgia Law. How many other victims are out there who don't know what their rights are because the agencies are not working together? Lucky for me, to date, I have not been further injured by the accused. Others in this county may not be as lucky as I have been. It is time the victims of crimes be treated with respect and the laws set forth by the State of Georgia be followed. At what point are the laws of this state important to the authorities of Sumter County? Is a victim going to have to lose her life at the hand of a released attacker before something is done here in Sumter County? I hope not.

[signed] Victimized Victim

The violation of statutory rights for victims is not the remarkable thing in this letter - for the research shows they are commonplace - even in our Federal justice system. In fact, a former federal prosecutor who testified before the Senate Judiciary Committee in opposition to the proposed Amendment argued that it would jeopardize prosecutions if victims had to be consulted over a plea bargain with accused co-conspirators to the principle crimes - this despite a Federal statute long on the books that requires precisely that form of consultation.

And the sense of outrage expressed in the letter is not remarkable. It is the natural, predictable reaction of people who know they have important rights, and who discover that their rights have been ignored. More worrisome are the reactions of the larger group of victims who yearn to be treated with dignity and respect, who were disappointed in their hopes - and who never knew they had any rights that mandate they be treated with dignity in concrete ways.

The failure of our conscientious efforts to have victim rights not only articulated as public policy but enforced as a public duty is not the only disappointment this veteran of the victims' movement has suffered. Permit me to express in personal terms the aspirations so many of us share:

If my dreams were to come true, my world would include a national hotline for all victims of crime that would provide information and referral on local victim assistance and victim compensation programs. My world would include victim service professionals who are trained and available to help all victims through criminal justice procedures. My world would include rights for victims to be informed, present and, heard in balance with rights for offenders.

For my heart is controlled by the deep alliance with the thousands of crime victims I have come to know in my twenty-five years of work in the victims' movement. Far too many of those friends and acquaintances have been made to feel contaminated, not vindicated, by the justice system. And many have fallen by the wayside as eighteen years has passed since the then-Attorney General Ken Eichenberry of Washington State first put forth the idea of a constitutional amendment.

Edith Sorgan's daughter was killed in New York in 1976. She last testified from her nursing home bed in 1983 at the National Conference on Victim Rights and the Judiciary praising the efforts of Attorney General Eichenberry and pleading for the hope of change to become a reality in the constitution. She died in July, 1984.

Leon Matthews was robbed and beaten at gunpoint in 1982. His assailant was arrested, prosecuted, and sentenced to three years in prison. Leon died in 1987 of injuries sustained in the attack. Leon was never given a chance to tell a court or a parole board what the impact of the crime had on his life. He was never asked about his financial losses or the possibility of restitution.

Ginny Mahoney's daughter was killed here in Washington, D.C., in 1997 at the Starbucks Restaurant just north of Georgetown. Years before, Ginny threw her life into victim services and her heart into victim rights from the time she was a Victim Services Director with Baltimore County and later with the U.S. Attorney's Office. She knew the need for victims to be a part of the process and the need for victims to have critical information about what was going on in the system. She died this last December, still looking forward to a day of justice for her daughter.

Aunt Mary and Uncle Bernie, who survived their daughter Ellie, gave me encouragement to speak out on behalf of victim rights whenever possible. Aunt Mary's legacy, in one sense, to the victims' movement was her phrase which I have echoed on her behalf many times, "Before Ellie was killed, I knew there was good and bad in the world, but I didn't really know there was good and evil - and that was a lesson I never had to learn." Aunt Mary died last year. Uncle Bernie died this year.

Ross and Betty Parks were parents of a murdered daughter, Betsy. The Parks waited seven years for a murder trial. As Betty Parks explained, "It was ... six and one half years after Betsy died when Gary Coleman was extradited from a prison in Georgia to North Carolina and charged with her murder. For the next fourteen months he was able to delay going to trial with motion after motion - thirty-one of them at one point." Betty died last summer.

I grew to know these doubly-wronged victims of violent crime, and the kind of maltreatment they received has been repeated to me hundreds of times by victims I have met in my travels. The problems addressed by the resolution before you are persistent and pervasive.

From the evening of April 13, 1985, to this day, there has been a nationwide coalition of victim advocates committed to the passage and ratification of a U.S. Constitutional Amendment for victims' rights. In many respects, H. J. Res. 64 goes farther than the proposal we originally backed, the one recommended by 1982 Presidential Task Force on Victims of Crime.

Our coalition - the National Victims Constitutional Amendment Network (NVCAN) - can claim some responsibility for expanding the breadth of the earlier proposal. Our members held several retreats to examine anew the core values deemed worthy of constitutional protection, and we ended up going beyond our old formula of giving victims the right to be informed of, present, and heard at every critical proceeding. That more expansive list of values - including a

right to know their victims' rights, standing to assert them (at least prospectively), a right to know of one's offender's release or escape, to have considered their interests in the pace of prosecutions and appeals, to restitution, and to strong authority to craft legislation to enforce the rights - all these, after Congressional fine-tuning, remain intact.

Moreover, while we who are active in NVCAN are fully supportive of S. J. Res. 3, the counterpart resolution now before the Senate, in one respect, H. J. Res. 64 is, we believe, an improvement. For it authorizes Congress to spread the mantle of Constitutional protection to victims of property crime as well as to those who suffer criminal violence. As one who has been subjected to both, I need hardly tell you that the consequences are often equally painful, and the justice issues they raise for the victim are usually identical.

Appended to my testimony are some thoughts expressed by my husband (and Deputy Director), John Stein, written some ten years after he attended the trial of the man who killed his cousin, a trial in which his family asked him to speak for them at the sentencing hearing. In it, he expresses some personal satisfaction over the way his family was treated in the trial of his cousin's murdered. But he also speaks of his personal dismay that not all victims are treated with such respect - and that the victims least likely to be accorded their rights are racial minorities.

John's personal discouragement is felt by most of us in the victims' movement. As a nation, we will not provide equal protection of the law - at least, not of victim rights law - until we make its application an American birthright. Until that happens, it will not just be racial and economic minorities whose claims to be treated to dignity will be unheeded in the justice system, for we see the systemic indifference imposed on victims who are also people with disabilities, or who are elderly.

So the resolution before you, when favorably acted on by the Congress and the states, will finally answer the bitter complaint voiced by a victim years ago: "All we ask is to be treated just like criminals."

Thank you for this opportunity to speak to you in behalf of NOVA, of the victims it represents, and of justice.

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Addendum: excerpts from an unpublished paper written by NOVA Deputy Director, John H. Stein:

"I am ..."

"I am ..."

"... somebody!"

"... somebody!"

Anyone who has seen the Reverend Jesse Jackson preach his interactive, secular sermons with African-American youth has been witness to hand-to-hand combat with despair. If anyone doubts that these young people feel themselves relegated to the fetid backwaters of society, let that skeptic try to explain the fervor with which they merely assert their human existence.

The sense of alienation Reverend Jackson seeks to lift from the shoulders of his young parishioners is one which millions of crime victims have come to experience. Of all the losses victims bear, perhaps none is more lasting or harmful to more victims than the felt loss of autonomy, of control over their lives, of connection to the social order.

Crime victims have ample reason to feel a certain kinship with racial minorities - particularly African-American youth of the inner city - partly because of a shared sense of powerlessness, and often because they *are* African-American youth of the inner city. We often lament that they have the highest arrest rates for violent crime among our various subpopulations, but rarely remember that their victimization rates are also the highest.

Some people like me have a passion for victim rights because they were fully accorded to me when I needed them - and they made a positive difference in my family's distressful reconstruction. But the victim rights revolution is a spotty one. It is not reaching everyone, whatever the laws on the books may say. Those most likely to be left behind are lower income Americans and racial minorities.

These are the findings of extensive research conducted by the National Victim Center (NVC) in four states, two with relatively weak statutory protections for victims, two with strong ones, backed up by state victim rights amendments. The overall disparities between the two groups of states are telling. Thus, for example, only 42 percent of the victims in the "weak" states were informed of their right to submit a victim impact statement at sentencing, whereas 75 percent of the victims in "strong" were so informed. This suggests that state constitutional amendments make a very

significant difference - but not big enough - not by a wide margin.

And especially not for non-whites. Even the "strong" states displayed weaknesses in honoring certain rights to minority victims. While 80 percent of white victims whose offenders were up for parole were told of their right to speak at the parole hearing, only 41 percent of the non-white victims were so informed. Sixty-three percent of white victims were informed of a possible plea agreement; only 43 percent of non-whites were. The figures for information about a suspect's bail release were 63 and 43 percent respectively.

Not surprisingly, the levels of dissatisfaction with the justice process had a pronounced racial characteristic, most notably in the weak states, where only 38 percent of white victims were dissatisfied with the opportunities to be heard at pleas and dismissals, a rate that rose to 62 percent among racial minorities. Comparable dissatisfaction rates over sentencing were 48 and 70 percent respectively.

We have long had a saying in the victims' movement: "Justice for all - even the victim." We are slowly achieving that ideal, at least for people whose demographic characteristics match mine. For those of us who care about *all* victims, especially those most likely to become victims by virtue of their race and income, our "progress" is bittersweet indeed.

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