

Steve Chabot, Chairman, House Subcommittee on the Constitution

Opening Statement

***Legislative Hearing on H.J. Res. 48
Federal Victims' Rights Amendment***

September 30, 2003

2:00-4:00 p.m.

Room 2141 Rayburn House Office Building

This afternoon the Subcommittee on the Constitution is convening to hear testimony concerning H.J. Res. 48, the Crime Victim's Rights Amendment to the United States Constitution. The purpose of the victims' rights amendment is to ensure comprehensive protection throughout the criminal prosecution process to victims of violent crime. While there are federal and state statutes that provide protections to some victims of violent crime, not only are crime victims not provided comprehensive rights, but these rights are not available to all victims.

In 1982, President Ronald Reagan convened the Presidential Task Force on Victims of Crime. After holding hearings around the country and carefully considering the issue, the Task Force concluded that the only way to fully protect crime victims' rights was to amend the U.S. Constitution.

Following this strong recommendation, crime victims' rights advocates decided to seek constitutional protections on the state level before undertaking a federal initiative. The campaign to enact protections at the state level was overwhelmingly successful. Today, thirty-two states, including my home state of Ohio, have passed amendments -- with the truly overwhelming support of voters.

Although state amendments now extend rights to victims of crime, the patchwork of protections has proven inadequate in fully protecting crime victims. A clear pattern has emerged in courthouses around the country--judges and prosecutors are reluctant to apply or enforce existing state laws when they are routinely challenged by criminal defendants. A study by the National Institute of Justice found that only 60% of victims are notified when defendants are sentenced and only 40% are notified of a defendant's pre-trial release. A follow-up analysis revealed that minorities are least likely to be afforded their rights as victims.

Currently, the U.S. Constitution is completely silent on victims' rights, while it speaks volumes about the rights of the accused. Thus, the U.S. Constitution essentially serves as a trump card for those accused of committing crimes in order to keep victims from participating in their prosecution, or even just sitting in the courtroom during trial.

A clear pattern has emerged in courthouses around the country in which judges and prosecutors are reluctant to apply or enforce existing state laws that are intended to protect victims' rights when they are routinely challenged by criminal defendants. Only an amendment to the Constitution can establish uniformity in the criminal justice system and ensure victims receive the justice they deserve. These strong new victims rights, like others guaranteed in our Constitution, would become fundamental, and citizens of every state would be protected.

Additionally, the federal statutes are insufficient. They require only that "best efforts" are used to provide rights to victims, but victims have no recourse if they fail to receive the rights to which they are legally entitled. Federal statutes are also ineffective in addressing victims' concerns. There are currently more than 1,500 federal and state statutes that are aimed at providing victims rights, and yet victim after victim is denied basic protections. Moreover, the rights granted by federal statutes only apply in certain *federal* proceedings.

A constitutional amendment is absolutely needed to help facilitate a balance between the rights of victims and those of defendants.

I want to stress that nothing in this amendment will undermine or weaken the long-established rights of defendants under our Constitution. A study of 36 states found that victims' rights legislation had little effect on the sentencing of convicted defendants. A second study of judges interviewed in states with victims' rights legislation indicated that courts did not unfairly favor victims over defendants. The amendment will not deny defendants their rights, but rather, grant victims rights that can coexist side by side with defendants' rights.

Crime victims deserve to be treated with dignity in our criminal justice system. I have introduced this legislation in the last two Congresses, and working with Senators Kyl and Feinstein, I think we made great progress in raising awareness of this critical issue. With the strong support we have received from President Bush, I am hopeful that this Congress we can pass this amendment and fortify an important truth: that victims must have their own inalienable rights under our Constitution.