

# *The Crime Victims' Rights Act*



*Safeguarding Justice for all Americans*



Dear Friend:

The U.S. Constitution grants every person accused of a crime fundamental rights including the right to a speedy trial, the right to counsel, the right to confront witnesses, and due process under the law. Our Constitution, however, guarantees *no specific rights to crime victims*.

This failure has caused many victims and their families to suffer twice – once at the hands of the criminal and a second time at the hands of our justice system. Victims and their families are often treated as inconveniences, ignored throughout trial proceedings, and sometimes even forced to stay out of the courtroom as those proceedings are going on.

To balance the scales of justice, Senator Jon Kyl of Arizona and I have been working for over eight years to pass a constitutional amendment that would guarantee a set of basic protections for victims of crime. We have yet to gain approval for a constitutional amendment. This year, however, legislation we sponsored was signed into law giving victims of violent crime in federal cases a core set of procedural rights under federal law and ensuring that they have standing to assert their rights before a court.

Opponents of a constitutional amendment have argued that a statute would be enough. I will be watching carefully to ensure that this law works as intended. If it does not, I can assure you that we will be back to ensure that crime victims are given the voice they deserve in the justice system.

Sincerely,

A handwritten signature in blue ink that reads "Dianne Feinstein". The signature is fluid and cursive, with the first name "Dianne" being larger and more prominent than the last name "Feinstein".

Dianne Feinstein

# *Ignored by the Justice System*



**I**n 2003, 5.4 million violent crimes and 18.6 million property crimes were committed in the United States. These 24 million crimes affected the lives of countless victims, yet crime victims remain largely ignored by the criminal justice system.

The Constitution guarantees more than a dozen rights to those accused of committing crimes yet not one word is written on behalf of crime victims. For more than eight years, Senators Dianne Feinstein and Jon Kyl have been working to balance the scales of justice by ensuring that crime victims are guaranteed a broad set of rights at every stage of the criminal justice process.

Originally, Senators Feinstein and Kyl sought to pass a constitutional amendment that would create a balance between the rights of the accused and the rights of victims.

However, after years of negotiations and more than 60 versions, they were unable to secure the necessary support of two-thirds of members in both houses of Congress. So, they introduced the Crime Victims' Rights Act in 2004, legislation to guarantee a core set of procedural rights to victims of federal crime. The bill was passed by the House and Senate and President Bush signed it into law on October 30, 2004.

# The Crime Victims' Rights Act



## Rights

The law gives victims of federal crimes 8 specific rights under civil law including the right to:

- Be reasonably protected from the accused offender;
- Reasonable and timely notice of any public proceeding involving the crime or of any release or escape of the accused;
- Not be excluded from any such public proceeding;
- Be heard at any public proceeding involving release, plea, sentencing, reprieve, and pardon;
- Confer with the Government attorney in the case;
- Full and timely restitution as provided in law;
- Timely and accurate information about public proceedings involving the crime or of any release or escape of the accused; and
- Be treated with fairness and with respect for the victim's dignity and privacy.

## Enforcement

The bill enforces the rights provided by requiring that:

- Criminal courts ensure that victims be afforded the rights and that any decision denying relief be made on the record.
- Prosecutors and other law enforcement officials make their best efforts to see that crime victims are notified of and accorded these rights.

If any federal court denies these rights, a victim may apply for a writ of mandamus for immediate relief.

## Funding

Additionally, the legislation provides \$122.3 million to the Department of Justice for grants to provide these rights and encourage states to provide these rights in state law.

# *Procedural Rights for Victims of Crime*

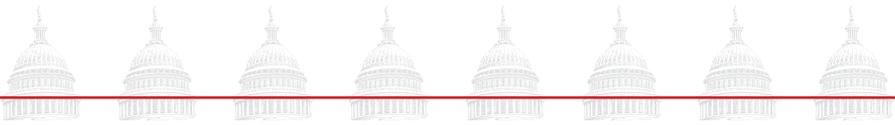
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## The Right Not to be Excluded from Public Proceedings

**V**ictims deserve the right not to be excluded from important criminal justice proceedings related to crimes perpetrated against them. Without this right, victims suffer a further loss of dignity and control of their own lives. Detailed legal analysis convincingly demonstrates that there is no general federal constitutional right of criminal defendants to exclude victims from trial. The Crime Victims' Rights Act would allow victims to be present at public proceedings related to violent crimes committed against them.

## The Right to be Heard at Public Proceedings

**V**ictims deserve the right to be heard at specific points in the criminal justice process: public release, plea, sentencing, reprieve and pardon hearings. Without this right, victims suffer a further loss of dignity and control over their lives. Victims have vital interests at stake when a court decides whether to accept a plea, and courts may not be fully informed of the consequences of releasing a defendant without victim statements. Courts have found victim information helpful in crafting an appropriate sentence, and victim involvement has been said to help the court gauge the effects of the defendant's crime not only on the victim, but on relevant communities. The Crime Victims' Rights Act confers on crime victims a right to be heard by the relevant decision makers at these critical points in the criminal justice process.



## The Right to Standing

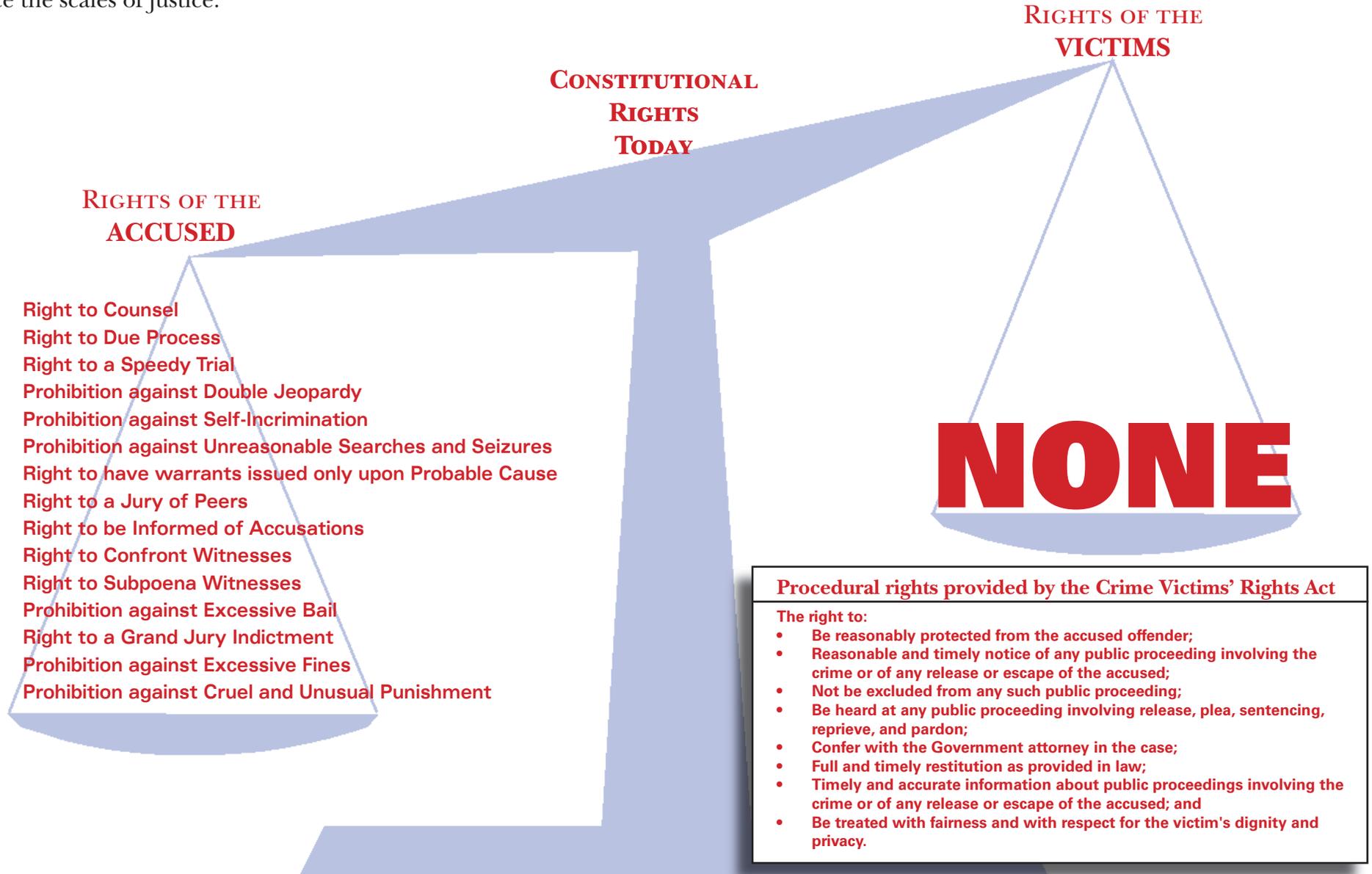
**I**f victims' rights are to be meaningful and enforceable, victims need one simple tool: legal standing to have the merits of their case considered. Without legal standing, victims have no ability to demand that courts and prosecutors enforce their rights. The Crime Victims' Rights Act confers on victims and their lawful representatives the legal standing they need to be able to assert their rights.

## The Right to Notice

**R**ights for victims in the criminal justice process are of little value if victims are not aware of when such proceedings will take place. Victims deserve to be informed of important public proceedings relating to crimes committed against them. The Crime Victims' Rights Act requires that action be taken so victims are given reasonable notification.

# A Justice System Out of Balance

The Constitution does not provide basic rights for victims of crime. Victims and their families are frequently treated as inconveniences, ignored throughout trial proceedings, and in some cases, forced to stay out of the courtroom. The Crime Victims' Rights Act seeks to balance the scales of justice.

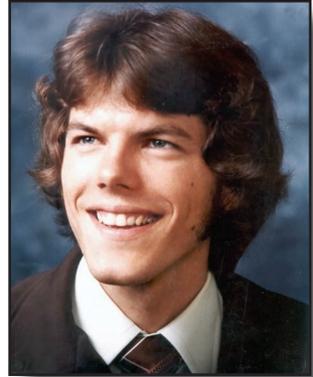


# Stories of Crime Victims

The Crime Victims' Rights Act was named after Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn. Their stories powerfully illustrate the inadequate rights accorded to crime victims and their families.

## Scott Campbell, 27

Scott Campbell was last seen in Anaheim, California on April 16, 1982. According to police, Campbell's neck was broken by two men while flying on a private plane and his body was thrown into the ocean.



During the trials of the men who murdered their son, the Campbell family was not permitted to enter the courtroom. They were not notified of a district court appeal hearing. When one of the killers was released from prison, the Campbell family was not notified. The family only learned of these developments through the media.

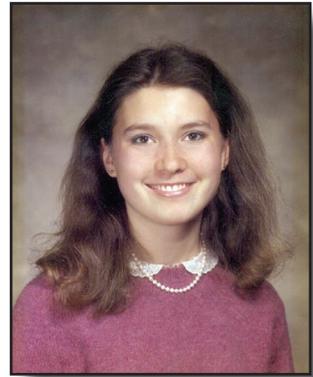
The victim's mother, Collene Campbell, testified before the Senate on April 8, 2003:

"My only son is dead because of a weak and forgiving justice system. There has been tremendous pain in our family, and multiplying that grief is the fact that the moment we became victims of crime, our rights were ignored in favor of (the rights of) killers. My husband and I were not permitted ... to be in the courtroom during all three trials for the men who murdered our son. We weren't going to be witnesses. They just kicked us out there ... and forced us to sit in the hall. We were not allowed to be heard, yet the killers' families were able to testify."



## Stephanie Ann Roper, 22

Stephanie Ann Roper was kidnapped, raped, tortured, and dismembered after her car had broken down on April 3, 1982.



Stephanie's parents, Vince and Roberta Roper, were notified of the initial proceedings in the case against the two men who murdered Stephanie, but not of the continuances. They were then excluded from the courtroom for the entire first trial. The defense convinced the court that the victims would be emotional, irrelevant, and would provide probable cause for reversal of an appeal. The court agreed, and denied Vince and Roberta the right to be a voice for their daughter.

Roberta Roper testified before Congress on July 27, 2002:  
“Like countless other victims and survivors, we discovered that, unlike our daughter’s killers, we had no rights to be informed, no rights to attend the trial, and no rights to be heard at sentencing. Place yourself in that nightmare. Imagine how it would feel to be shut out of the trial of the accused ... for no good cause. ... Like countless other families then and now, we struggled not only with the devastating effects of the crimes committed against our loved ones, but the consequences ... of being shut out of the criminal justice system we depended on and trusted.”

## Wendy Preston, 23

Wendy Preston was murdered on June 23, 1977 in her parents' Florida home. Wendy's murderer was arrested and charged with first-degree murder.

Her parents were told that the State of Florida was the "victim" in this case, and that they would be notified if they were to be called as witnesses. After nearly 6 years, the murderer was allowed to plead to a second-degree murder charge, and was sentenced to life in prison. In 1987, the Florida Supreme Court overturned his sentence, on the grounds that statutes existing at the time the crime was committed only protected the rights of defendants and therefore courts could not consider victims' rights.

Wendy's father, Robert E. Preston, spoke of the need to protect victims' rights:

"From the standpoint of the process of justice being done, victims who are included in the criminal justice process will be far more cooperative with reporting crime, and cooperating with authorities and proceeding in the prosecution. From the standpoint of the victim, when you are treated with trust and compassion, you start to regain faith in the world, and a view of the fact that life goes on, and that life can be beautiful."



## Louarna Gillis, 22

Louarna Gillis was murdered on January 17, 1979 as part of a gang initiation. Her murderer wanted to enter the world of narcotics in the “Mexican Mafia,” and was told the quickest way to do so was to murder the daughter of a Los Angeles Police Department (LAPD) officer. John Gillis, then a homicide detective with the LAPD, had just left an intelligence assignment working with street gangs and the “Mexican Mafia” at the time of her murder.



When Louarna’s murderer was apprehended six months afterward, her family members were not notified of the arraignment, nor other critical proceedings in the case. During the first trial, which resulted in a hung jury, Louarna’s father, John Gillis, was not allowed in the courtroom. At the second trial the murderer pled guilty to second-degree murder to avoid the death penalty. He was sentenced to 17 years to life. After experiencing such poor treatment by the justice system, John Gillis became a victims’ advocate and was later appointed by President George W. Bush as the Director of the Justice Department’s Office for Victims of Crime.

John Gillis testified before Congress on July 17, 2002:  
“I know firsthand the personal, financial, and emotional devastation that violent crime exacts on its victims. As a survivor of a homicide victim, I testify ... with the unique advantage of understanding the plight that victims and their families face in the criminal justice system. ...When a person is victimized by crime, he or she is thrust into a whole new world in which the state’s or the government’s needs take priority. This is the most devastating time in a person’s life, when they’ve lost a loved one to homicide or violent crime ... they need protection. They need to let the court know how this crime has impacted their lives, because it will have a long-lasting, traumatic impact in their lives. It’s important that they have the opportunity to say something to defend their loved one.”

## Nila Ruth Lynn, 69

Nila Ruth Lynn was murdered at a homeowner's association meeting on April 19, 2000. She died on the floor in the arms of her husband of 49 years and 9 months, Duane.



Duane suffered through long delays and continuances in the case against his wife's murderer. Despite clear state constitutional and statutory rights, he was not allowed to make a sentencing recommendation for his wife's murderer. Nila's killer was sentenced to death; Duane wanted the defendant to be sentenced to life in prison without the possibility of parole, rather than deal with the continuing appeals involving the death sentence. The U.S. Supreme Court has denied his petition for a review of the Arizona Supreme Court's refusal to protect his rights. Duane has written a book about his struggle in the justice system, [Only Heaven Knows: Victimized by a Murderer, Then by the Courts.](#)

Duane Lynn testified before the Senate on April 8, 2003: "The evil done by a murderer inflicts tragedy, and that is bad enough. But injuries inflicted by our legal system are even harder to take. I felt kicked around and ignored by the very system the government has in place to protect law-abiding citizens."



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