

Approved: WWW 7/22/92
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairperson Senator Wint Winter Jr. at
10:05 a.m. on February 13, 1992 in room 514-S of the Capitol.

All members were present except:
Senator Feleciano and Gaines who were excused.

Committee staff present:
Mike Heim, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:
Attorney General Robert Stephan
Hank Booth, Victims' Rights Task Force
Ruth Hessman, Dodge City
Wanda Stewart, El Dorado
Mary Stewart, Kansas State Nurses Association
Verne Horne, Topeka
Michael Solaberry, Roeland Park
Dee Story, Independence
Winter Parnell, Pleasanton
Judge Jim Beasley, Wichita
Ellen Radford, Topeka
Donna Lair, Wichita
E. Ceasus Tyree, Wichita
Mary Bain Armour, Salina

Chairman Winter brought the meeting to order by opening the hearing for SCR 1634.
SCR 1634- providing certain constitutional rights for victims of crime.

Attorney General Robert Stephan testified in support of SCR 1634. (ATTACHMENT 1)

General Stephan responded to questions from the Committee by stating he did not think the current statute provides for a victim's right to bring a writ of mandamus if notification duties are not performed by the authorities. He further stated that the provisions of the amendment would apply only to open court proceedings and added that there would be no additional costs if SCR 1634 were passed.

Hank Booth, Chairman of the Attorney General's Victims' Rights Task Force, testified in support of SCR 1634. (ATTACHMENT 2)

Ruth Hessman, Dodge City, testified in support of SCR 1634. (ATTACHMENT 3)

Wanda Stewart, El Dorado, testified in support of SCR 1634. (ATTACHMENT 4)

Mary Stewart, Kansas State Nurses Association, testified in support of SCR 1634. (ATTACHMENT 5)

Verne Horne, Topeka, testified in support of SCR 1634. (ATTACHMENT 6)

Michael Solaberry, Roeland Park, testified in support of SCR 1634. (ATTACHMENT 7)

Dee Story, Independence, testified in support of SCR 1634. (ATTACHMENT 8)

Winter Parnell, Pleasanton, testified in support of SCR 1634. (ATTACHMENT 9)

Judge Jim Beasley, Wichita, testified in support of SCR 1634. He served as Chair of the Victims' Rights Task Force in 1989 when the present victims "bill of rights" was passed. He stated that most of the Constitution consists of messages on things that statutes are drafted to carry out. Our basic rights are in the Constitution, and victims' rights should have the same weight and validity as the rights of those convicted of violating the rights of others. He concluded by stating that the current victims' rights statutes are applied unevenly, and he feels a Constitutional amendment would help to alleviate that problem.

Ellen Radford, Topeka, testified in support of SCR 1634. (ATTACHMENT 10)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:05 a.m. on February 13, 1992.

A victim, who wished to remain anonymous, related her experiences and testified in support of SCR 1634.
(ATTACHMENT 11)

Donna Lair, Wichita, testified in support of SCR 1634. (ATTACHMENT 12)

E. Ceasus Tyree, Wichita, testified in support of SCR 1634. (ATTACHMENT 13)

Mary Bain Armour, Salina, rose to voice her support of SCR 1634.

The Committee received written testimony in support of SCR 1634 from:

Alice Moore, Pittsburg (ATTACHMENT 14);
Kathy Williams, Wichita Area Sexual Assault Center (ATTACHMENT 15);
James McHenry, Kansas Child Abuse Prevention Council (ATTACHMENT 16); and
Kris Wilshusen, Wichita (ATTACHMENT 17)

The hearings were continued to Friday, February 14, 1992, at 9:30 a.m. in Room 514-S. The meeting was adjourned at 11:20 a.m.

VISITOR SHEET
Senate Judiciary Committee

(Please sign)

Name/Company

Name/Company

Giovanna Radtke POMC	A Therese Bargeet, KCCD
Jan Jan Dues POMC	Shirley Taylor, KCCD
Patricia O'Day POMC	Karen Smith POMC
Donna Lair POMC	Shirley Taylor POMC
Mary T. Stewart, RN (KSNA)	Mary B. Arman, Support, Salina, Kans.
Julienne Machag Ab-office	Stephanie Klaus Crisis Center
Walter Joy Carroll	Bob Hessman Dodge City
Melody Berry	Ellen Radford
Beth Hessman	Ab Smith POMC
Mary Jo Heiser SO (KSNA)	Harriet Smith POAC
Lisa Milner Washburn Student	Jessie B. Harn
Heidi Bradbury RN KSNA	Wanda Stewart MADD
Fran Nash OJA	John M. Eiler
Mary Roth AG office	Angela McClure
Lynn Stamm Jo City Dist. Atty's	Sandy Barnett - Crisis Center - Manhattan
Mary Howard AG's Office	Nancy Lindberg Atty. General's Office
Heidi Attila Crisis Center	Faye Bowman, Sen. Parrish's office
Kathy Logan Crisis Center	Karen Vandusen Goodman POMC
Kim Perdue Crisis Center	Ronald S. Goodman POMC
John Clark - KCDAA	Karen Cooper, Lenexa, KS
R. Lipsey - AP	Louise Valdivia, RN KU-Med
Ryan Tschopp KDOC	
Betty M. Clark, Kansas Council on Children	
Mary Ann Taylor POMC	
Brenda Kay Taylor POMC	
Michele Taylor POMC	



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

Testimony of
Attorney General Bob Stephan
Senate Judiciary Committee
RE: Senate Concurrent Resolution 1634
Victims' Rights Constitutional Amendment
February 13, 1992

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

Mr. Chairman and Members of the Committee:

I want to thank the President of the Senate Bud Burke for introducing Senate Concurrent Resolution 1634, the resolution to put a victims' rights constitutional amendment to a vote of the people in November, 1992.

Today you will hear from the chair of my Victims' Rights Task Force, Hank Booth, who will tell you why he got involved in supporting a victims' rights constitutional amendment. You will also hear from a district attorney, a district court judge, a national leader of MADD, and leaders of state organizations as to why they support a constitutional amendment. And you will hear from crime victims--some who will share with you how well the system is working for them and how important it has been for them to be notified and heard by their county or district attorney or by the Department of Corrections, and--some who will share their frustrations and anger at a judicial system that has not been

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compassionate and has not kept them informed of the judicial process. These crime victims will tell you why they believe you should pass this resolution to allow a victims' rights constitutional amendment to be on the ballot in November.

I have with me petitions containing more than 8,600 signatures of people who support a victims' rights constitutional amendment in Kansas. Attached to my remarks I have provided you the names of the constituents from your district who have signed our petitions. The numbers are overwhelming!

You, as legislators, have an excellent record in showing concern and compassion for victims of crime. You may wonder then why we need a constitutional amendment that will transfer from the existing statute to the Constitution the right of the victim to be notified of public hearings and the right to be present and to be heard.

The answer is both simple and basic. Since the victim is the true aggrieved party, the victim should receive the same entitlement to be a "constitutional" person as the perpetrator of the crime. No higher right exists than one existing in the constitution. If victims' rights remain statutory, they will remain subservient to the constitutional right afforded the accused.

Also, under current Kansas statutes, a private citizen does not have enforcement power in the area of victims' rights. The amendment would allow victims to bring their own legal actions, not

for damages, but to make sure that their rights are protected and ensured.

Eight states currently have constitutional amendments. In addition, Colorado and Missouri have passed amendments in their legislatures and will have those amendments on the ballot in November, 1992.

We too must have a constitutional amendment for victims' rights. I ask you to support this resolution.

VICTIM'S RIGHTS TESTIMONY
BY HANK BOOTH, CHAIRMAN VICTIMS' RIGHTS TASK FORCE
2/13/92

My comments today will be brief because the most compelling reasons for putting this amendment on the ballot will be presented by those who follow me.

After listening to hours of testimony I am more convinced then ever that the citizens of Kansas who are caught up in our criminal justice system and who are victims of crimes need the support and strength of their state's Constitution. If the only thing we accomplish with this amendment is that people in this state understand that they have rights that must be protected by their Constitution you have served them well by putting this amendment on the ballot.

Before we started our hearing I read an article in the Wichita Eagle. The headline stated..."Victims' rights amendment faces uphill fight". That's fine, I thought, we should have to prove our case conclusively before we do something as important as changing our state's most important document. Then as I read the article. One quote shocked me. After the County and District Attorneys Association board of directors voted to oppose the amendment the executive director of that association was quoted as saying..."It's kind of like apple pie and motherhood, but it's really not doing anything for victims. One concern is that it would get people's expectations up."

Well friends, heaven forbid that the people of this state should get their expectations up about how they are treated by the criminal justice system. If we don't have high expectations about how we will be treated in our system of laws, authority, prosecution and judgement what will we have? We are simply asking for fairness and responsibility from those who are charged with upholding the law. This amendment would give victims the opportunity to address the system with at least a sense that they have some of the rights of the criminal.

I would conclude that if you hear anything about apple pie and motherhood in the same cynical tone that was applied in the newspaper article. I will be happy to buy each of you a cup of coffee. These are peoples lives we are talking about. Thank you for your time.

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VICTIMS RIGHTS CONSTITUTIONAL AMENDMENT

LEGISLATIVE HEARING

MY NAME IS RUTH HESSMAN, I AM A HOUSEWIFE AND A MOTHER. MY HUSBAND BOB FARMS SOUTH OF DODGE CITY AND WE ARE THE PARENTS OF SEVEN ADULT CHILDREN. OUR NEXT TO YOUNGEST DAUGHTER MARY MEL EESA RAINS WAS A TWENTY-EIGHT YEAR OLD HAPPILY MARRIED WIFE AND MOTHER TO THREE YOUNG CHILDREN WHO LIVED IN GARDEN CITY.

ON THE NIGHT OF JULY 19, 1989, WHILE AT WORK AT A COASTAL MART SHE WAS ROBBED AT GUNPOINT, KIDNAPPED AND TAKEN TO A WHEAT STUBBLE FIELD NORTH OF TOWN. THERE SHE WAS MURDERED EXECUTION STYLE WITH TWO SHOTS TO THE BACK OF HER HEAD.

THE ACCUSED MURDERER IS GREGG BRAUN, SON OF LELYN BRAUN WHO IS A PROMINENT ATTORNEY FROM GARDEN CITY. GREGG BRAUN STARTED HIS MURDER SPREE SHORTLY AFTER MIDNIGHT AT A DART IN STORE ACROSS TOWN FROM WHERE OUR DAUGHTER WORKED. THERE HE ROBBED, KIDNAPPED AND TOOK BARBARA KOCHENDORFER TO A DITCH NORTH OF TOWN AND SHOT HER TWICE IN THE BACK OF THE HEAD. BARBARA WAS A TWENTY-SEVEN YEAR OLD MOTHER OF FIVE YOUNG CHILDREN.

THE NEXT DAY HE WENT TO PAMPA, TEXAS. THERE HE IS ACCUSED OF KILLING MR. PETE SPURRIER. NEXT TO ARDMORE, OKLAHOMA WHERE HE IS ACCUSED OF SHOOTING THREE WOMEN, ONE GWEN MILLER DIED. THEN HE WENT ON TO SPRINGER, NEW MEXICO WHERE HE KILLED MRS. ELITO VALDEZ. DUE TO THE FACT THAT THEY CALLED FOR A ROAD BLOCK HE WAS CAPTURED, CONFESSED ~~AND~~ WAS TRIED AND ~~WAS~~ SENTENCED TO LIFE IN PRISON.

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HE IS NOW IN JAIL IN GARDEN CITY AWAITING TRIAL.

OUR DAUGHTER'S BODY WAS FOUND AT 9:00 A.M. THAT MORNING AND HER FATHER AND I ARRIVED IN GARDEN CITY AT 7:30 A.M. I CALLED THE POLICE TWICE THAT DAY ASKING FOR INFORMATION --- I WAS TOLD BOTH TIMES THEY COULD TELL US NOTHING. EVEN THOUGH THE POLICE HAD PICKED UP A PHOTO OF HER AT 4:30 A.M., WHEN THEY INFORMED OUR SON-IN-LAW THAT SHE WAS MISSING. AT 3:30 P.M. WHEN THE MAILMAN CAME BY HE INFORMED MY HUSBAND THAT OUR DAUGHTER WAS DEAD. HIS WIFE KNEW OUR DAUGHTER AND SHE WAS ONE OF THE E.M.T.'S WHO PICKED UP HER BODY. SHORTLY AFTER THAT A FRIEND OF OUR DAUGHTERS CAME BY, SHE WAS CRYING AND VERY UPSET. SHE HAD BEEN IN THE BEAUTY SHOP WHEN ONE OF THE POLICEMEN'S WIVES HAD TOLD EVERYONE IT WAS OUR DAUGHTER. LAW ENFORCEMENT DID NOT INFORM US UNTIL 4:30 P.M. --- THATS SEVEN AND A HALF HOURS. WAITING TO TELL OUR FAMILY THEIR LOVED ONE IS DEAD DOES NOT SOFTEN THE BLOW. IF IT WAS BEING PASSED ALL OVER TOWN, WHY COULD WE NOT BE TOLD? FOR SEVEN AND A HALF HOURS WE WERE ON THE MOST HORRIBLE EMOTIONAL ROLLER COASTER, HOPEFUL ONE MINUTE AND DESPAIRING THE NEXT. THE PRESENT STATUTE HAS FAILED OUR FAMILY COMPLETELY. I'M SAD TO REPORT WE HAVE BEEN KEPT BETTER INFORMED BY THE NEW MEXICO DISTRICT ATTORNEYS OFFICE THEN BY OUR OWN STATE. RICKLAND PIERCE IS THE COUNTY ATTORNEY FOR FINNEY COUNTY. WHEN I FIRST CONTACTED HIM I COMPLAINED ABOUT THE POLICE AND THE WAY THEY HAD HANDLED THE WHOLE CASE: THE WAY WE WERE INFORMED, THE FACT THAT THERE WERE SEVERAL HOURS BETWEEN KIDNAPPINGS AND THERE WAS NO ROAD BLOCK SET UP WHEN THE FIRST VICTIM WAS REPORTED MISSING. I THOUGHT HE WOULD BE ABLE TO EXPLAIN THE PROBLEM.

INSTEAD I RECEIVED A LONG LECTURE ABOUT HOW GREAT THE POLICE DEPARTMENT WAS. WE TRIED SEVERAL TIMES AFTER THAT TO GET SOME INFORMATION ABOUT THE CASE, ONLY TO RECEIVE MORE LONG LECTURES ABOUT THE COST OF A TRIAL AND THAT HE WAS CONSIDERING A PLEA BARGAIN. WE FOUND HIM TO BE THE MOST DIFFICULT PERSON TO TALK TO AND HE DOES NOT EVEN PRETEND TO UNDERSTAND THE FEELINGS OF THE FAMILY. WE HAVE A FAXED COPY OF PIERCE'S LETTER TO BRAUN'S ATTORNEY IN NEW MEXICO OUTLINING THE PLEA BARGAIN AGREEMENT. IN IT PIERCE AGREED TO TWO LIFE SENTENCES--TO BE SERVED CONCURRENTLY, WHICH MEANS SIDE BY SIDE. THIS WOULD MEAN BRAUN COULD COME UP FOR PAROLE IN JUST FIFTEEN YEARS. THE TWO ROBBERY AND TWO KIDNAPPING CHARGES WOULD BE DROPPED.

WE WERE INFORMED FROM NEW MEXICO WHEN BRAUN WAS TO BE RETURNED TO KANSAS. I CALLED JULIE LANNON THE VICTIM REPRESENTATIVE IN GARDEN CITY THE NEXT MORNING ASKING WHEN BRAUN WOULD HAVE HIS FIRST HEARING. HER REPLY WAS, "AS WE SPEAK HE'S HAVING HIS FIRST HEARING". WELL SO MUCH FOR NOTIFICATION!

THE GARDEN CITY NEWSPAPER FOR NOVEMBER 15, 1991 QUOTES BRAUN ABOUT HIS RETURN TO KANSAS, "THIS IS LIKE A VACATION FOR ME". ALSO HE WANTED NO VISITORS WHILE IN JAIL, "BECAUSE IT IS A SHAMEFUL ENVIRONMENT".

WE LEARNED LATER THAT BRAUN IS RECEIVING VISITS FROM HIS FAMILY MEMBERS IN A CONFERENCE ROOM INSTEAD OF THE REGULAR VISITORS ROOM. I ASKED MR. GROVER CRAIG, THE SHERIFF, IF THIS WAS TRUE AND HE SAID IT WAS. AT THAT TIME I INFORMED HIM OUR FAMILY OBJECTED TO THIS PAMPERING OF A SELF CONFESSED, CONVICTED MURDERER. HIS ONLY REPLY WAS, "YOU SHOULD HAVE SOME SYMPATHY FOR THE BRAUN FAMILY". OUR OBJECTION HAD NOTHING TO DO WITH THE BRAUN FAMILY, IT HAS TO DO WITH A CONVICTED MURDERER BEING GRANTED HIS WISH NOT TO HAVE HIS FAMILY SEE HIM IN THE "SHAMEFUL ENVIRONMENT" IN WHICH HE HAS PLACED HIMSELF.

WE VISIT OUR DAUGHTER AT THE CEMETERY! AS WE STAND BY HER GRAVE THERE IS NO WAY SHE CAN COME TO US SO WE CAN TELL HER ONE LAST TIME THAT WE LOVE HER AND MISS HER. WE HAVE RECEIVED A LIFE SENTENCE WITH NO SPECIAL PRIVILEGES. THERE IS SOMETHING WRONG WITH THE CRIMINAL JUSTICE SYSTEM IN OUR STATE WHEN THOSE IN CHARGE TAKE THE SIDE OF THE CRIMINAL. MORE AND MORE WE READ AND SEE ON TELEVISION THE VICTIMS TRYING TO TAKE THE LAW INTO THEIR OWN HANDS. SURELY THIS IS NOT WHAT ANY THINKING PERSON WANTS. IT'S FINE TO PROTECT THE CRIMINAL'S RIGHTS, IN DOING THAT, LET'S NOT FORGET THAT THE VICTIM HAS RIGHTS ALSO.

ON DECEMBER 30, 1991, A WEAPON MADE OF TWO COMBS, A DOUBLE EDGED RAZOR BLADE AND STRIPS FROM HIS BED SHEET WAS FOUND IN BRAUN'S CELL. A NOTE TO ONE OF THE JAILERS FROM AN INMATE TOLD OF AN ESCAPE PLAN BY BRAUN AND ANOTHER PRISONER. I WONDER JUST HOW MANY CRIMINALS ARE RECEIVING SPECIAL PRIVILEGES?

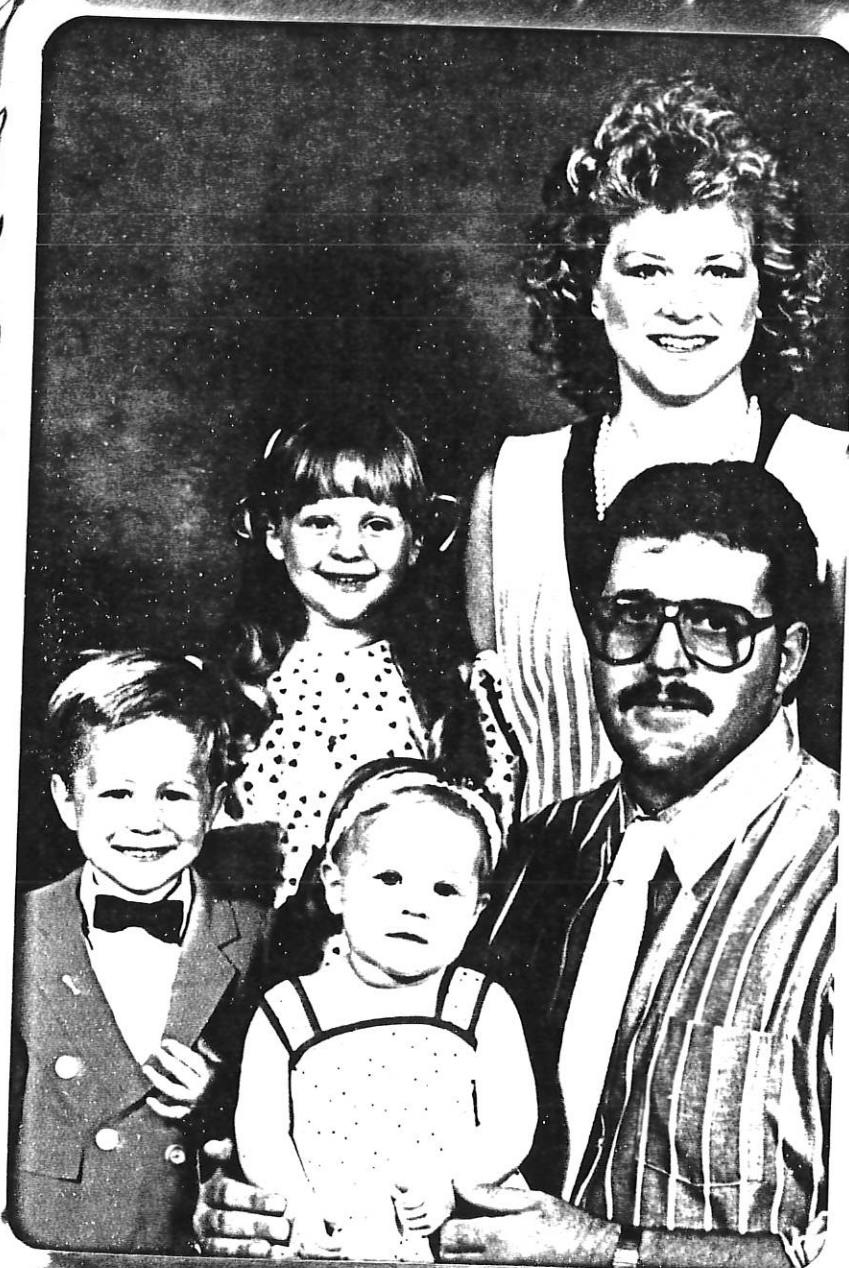
THIS MAN IS DANGEROUS! HE HAS MURDERED FOUR WOMEN, ONE MAN AND LEFT THIRTEEN CHILDREN MOTHERLESS AND THREE CHILDREN FATHERLESS, ~~AND~~ HE DOES NOT DESERVE ANY SPECIAL TREATMENT!

THE PEOPLE WHO CONTROL THE SYSTEM ARE THE COUNTY ATTORNEYS AND DISTRICT ATTORNEYS. THESE ARE THE PEOPLE WHO WILL BE SPEAKING AGAINST THIS AMENDMENT: ESPECIALLY THOSE LIKE PIERCE WHO HAVE HAD VERY LITTLE POWER IN THEIR LIFE AND DON'T KNOW HOW TO HANDLE IT. THEIR ONLY INTEREST IN THIS MATTER IS THEIR OWN RE-ELECTIONS. THEY WILL BE CLAIMING TO SAVE THE VOTERS MONEY WITH PLEA BARGAINS AND BY NOT HAVING EXPENSIVE TRIALS.

WHAT THE VOTERS AND YOU THE PEOPLE WHO REPRESENT THE VOTERS MUST UNDERSTAND IS THAT ANYONE CAN BECOME A VICTIM AT ANYTIME. WE CERTAINLY DID NOT SEEK THIS DISTINCTION. PLEASE REMEMBER ALSO THAT VICTIMS ARE MOST OF THE TIME TAXPAYERS AND VOTERS.

BRAUN HAS DECIDED TO PLEAD INNOCENT TO PROLONG HIS "VACATION" HERE IN KANSAS. AS THINGS STAND AT THE MOMENT THERE WILL BE A TRIAL. NO THANKS TO PIERCE! OUR FEAR IS THAT IF BRAUN CHANGES HIS PLEA TO GUILTY PIERCE MAY REVERT BACK TO THE PLEA BARGAIN. THIS ALONG WITH ALL THAT HAS HAPPENED TO OUR FAMILY IN THE LAST THIRTY MONTHS WILL JUST MAKE US VICTIMS AGAIN, BY A SYSTEM THAT SEEMS TO CARE MORE ABOUT THE CRIMINALS THEN ABOUT THE VICTIM.

WE HAVE HAD TO HIRE AN ATTORNEY JUST TO MAKE SURE WE RECEIVE THE INFORMATION WE ARE ASSURED OF BY THE PRESENT STATUTE. THIS WILL COST US OVER \$1,500.00. WE ARE NOT A WEALTHY FAMILY AND THIS PRESENTS A REAL HARDSHIP. A CONSTITUTIONAL AMENDMENT WOULD PREVENT ANOTHER FAMILY FROM HAVING TO GO THROUGH WHAT WE HAVE. WE SUPPORT IT AND PRAY YOU WILL FIND IT IN YOUR HEART TO DO THE SAME. I WOULD LIKE TO THANK EACH OF YOU FOR THE CHANCE TO SPEAK ON THIS MATTER.



Mary Mel Essa Rains : her family
She was murdered 7-19-89 by Gregg Braun
3-7/7

February 13, 1992

Re: Senate Concurrent Resolution 1634

Senators I am here today to ask for your support concerning Senate Concurrent Resolution 1634. I am here as a volunteer for Mothers Against Drunk Driving and as a crime victim of Kansas.

I am proud to have the opportunity to speak to you today and yet stressed by doing so...Because you see today ironically it is the anniversary loss of our son, Scott. Eleven years ago today our 3 and a half month old son was killed by a drinking driver -- leaving Stan and I childless and yes victims of a criminal act.

Our victimization did not end with the crash that day. Several concerned individuals asked us what we were going to do about the young woman who was responsible for the loss of Scott and for my injuries. Stan and I were both raised that if someone did something wrong they would be held accountable. We counted on the judicial system --- how naive we were ...

Never once did the county attorney visit with me - the surviving mother. Never once did he speak voluntarily with any member of our family. Only after the charge was filed and processed through the system did we learn through our own means what happened. We learned through the court docket that she was charged with only DUI and received a \$100 fine and was given a drivers license restriction to drive to and from college --5 hours across Kansas--actually what she was doing the day of the crash. How could such a crime take place and our loss of Scott ignored. The sentencing was questioned by my mother. The judges' response was he had no knowledge of there being a fatality- the county's only fatality of the year. We were victimized again by the very system we thought was to serve and protect us. How naive we were...

MADD's mission is to stop drunk driving and to assist the victims of that crime. As a volunteer I have listened to a number of victims of alcohol-related crashes. The majority of our victims are frustrated with the system --- they feel left out - excluded from the very process that brought them to the system. Every county attorney's office should make the victim or victim's family a part of the process yet more times than not they hit a wall of resistance or neglect. The Victims Bill of Rights sounds great but it really gives victims no recourse if their rights are ignored. Senate Concurrent Resolution 1634 is needed for all victims.

Thank you for your time and consideration.

Wanda Stewart * 609 Random Rd. * El Dorado 67042

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FOR MORE INFORMATION CONTACT:

Terri Roberts, J.D., R.N.
Executive Director
Kansas State Nurses' Assoc
700 S.W. Jackson Suite 601
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(913) 233-8638

February 13, 1992

SCR 1634 VICTIMS RIGHTS AMENDMENTS

Senator Winter and members of the Senate Judiciary Committee, my name is Mary Stewart R.N. and I am a registered nurse, here today representing the **Kansas State Nurses' Association**.

Kansas State Nurses' Association is endorsing this concept because we share not only a desire but also an obligation to support and propagate the Victim's Rights Amendment. Nurses differ in opinion on many issues but there is one point upon which all nurses agree and upon which we base our quite diversified practices ----- nurses are first and foremost patient advocates. As patient advocates we must "stand in" for those we serve and attempt to do for them those things they cannot do for themselves until they are restored to a state of independence. We take on as patients, victims of every type of crime, from the battered, molested, and raped to those robbed, assaulted, and run down by drunken and reckless drivers. We see these victims injured, shamed, discouraged and terrorized, but the worst type of injury witnessed is caused by bondages of fear and anxiety. Countless times we see this bondage of fear inflicted injury equal to or greater than the original assault.

My own practice includes the areas of home health, acute care, and nursing in a clinic for the medically indigent. I have witnessed persons, especially elderly persons, withdraw behind locked doors after becoming victims of crime, immobilized and cut off from socialization. These persons create (out of fear) the very situations they (do) fear. Rather than risk becoming victims of crime again they become victims of bondage.

Kansas State Nurses' Association Constituent of The American Nurses Association

700 S.W. Jackson, Suite 601 • Topeka, Kansas 66603-3731 • (913) 233-8638 • FAX (913) 233-5222
Michele Hinds, M.N., R.N.—President • Terri Roberts, J.D., R.N.—Executive Director

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Victim's Rights Amendment
Kansas State Nurses' Association Testimony
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As nurses, we try to sustain the individual while the healing process mends and repairs. Healing requires a large quantity of energy drawn from the individuals physical, emotional, and spiritual reserves. Fear and anxiety utilize a large quantity of energy, tapping these reserves, running them dry ---- retarding the healing process.

You as legislators in the state of Kansas, have already recognized the need to release victims from their bondages by having enacted statutes to help guarantee these rights; but, statutes alone cannot accomplish this. If, for example, these rights guaranteed by statutes are violated or neglected, the victim has little or no recourse to correct the situation. A constitutional amendment guarantees these rights under the office of the Attorney General. It also serves to make these rights permanent and irreversible within the state. A Victim's Rights Amendment will not eliminate the problems victim's face but it will serve as a giant step in guaranteeing basic rights to the many residents of Kansas who fall victim to crime.

Nurses are here to stand in as patient advocates for the many persons who are victims of crime. You also as legislators are here acting as "people" advocates. You also share the responsibility with us to "stand in" for these victims of crime, and to do for them what they cannot do for themselves. Grant them a permanent means of procuring their rights. Guarantee them the rights that belong to them, the rights to protection from being victimized over and over again through fear. We share common roles and common goals, the Victim's Rights Amendment could help us both fulfill these.

Thank you.

a:victim
Testimony. 1992

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On December 4, 1989, I, along with two neighbors, was kidnapped at gun point by Tyrone Baker in Topeka. Baker drove us into Douglas county, where I escaped. The other two vicims were murdered. Because the crimes were committed in both Shawnee and Douglas counties, separate trials were held in each county.

Two weeks after the kidnappings/murders, I read in the paper that the preliminary hearing in the Baker case in Shawnee county was to be held January 4, 1990. On Friday, December 29, an outside source told me the hearing had been continued. I read about it in Saturday's paper. I was stunned, for I had been gearing myself psychologically to facing Baker for the first time since his arrest and to testifying. My husband urged me to call the County Attorney and talk with him about it on Monday. Until this time I had had no contact with his office, except for the sheriff's officer who delivered the subpoena and a "Victim Witness Testimony Aid" pamphlet, although I was a primary witness in the case. The attorney was out when I called. He returned my call and I explained to him that I was totally ignorant of court procedures. I had never even had a parking ticket. I further explained that I was still fearful, emotionally labile and deeply concerned that I be able to do whatever I was supposed to do at the hearing. I followed with two requests: that he assign someone in his office to spend some time with me to answer my questions about legal procedures and that someone in his office relay information about the case to me before it appeared in the newspaper. I used the continuance as an example, telling him how it had upset me. His response was curt and defensive. He saw no need for someone to explain procedures to me. All I had to do was to come down to the courthouse, testify and go home. As far as developments in the case were concerned, I could read about them in the newspaper like everyone else. I told him again about my fragile emotional balance and that I also needed time to arrange for police escort to and from the courthouse. He sounded angry and impatient as he told me he could not provide escort, that it was not necessary. Out of patience, I responded that the police and I thought it was necessary, and that they understood that this was more complicated than having my car stolen. He raised his voice and started to say something. I interrupted, saying, "Thank you for returning my call", and slammed down the receiver. All the frustration, rage, and the feelings of helplessness were overwhelming. Looking into the barrel of Baker's gun had been no more intimidating.

On Friday, January 26, with the preliminary hearing to start on the 30th, I

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received a call from Suzanne James, the daughter of one of the murdered victims. She has received a call from the Douglas County Attorney, telling her that the Shawnee County Attorney had sent him information about a plea bargain with the defendant, Baker, by which Baker would receive a minimum of 30 years in prison... having committed 3 murders, 5 aggravated kidnappings, an aggravated assault and sundry other crimes. Four of the survivors of the murder victims, and my husband and I agreed that we opposed any plea bargaining. Suzanne, at our request, held a news conference that evening and asked the community to respond to the idea of a plea bargain by contacting the Shawnee County Attorney. It was at that time that we hired a special prosecutor to represent us because we felt that the county attorney would continue to ignore us and give us no consideration. It seemed to be the only way to have any voice in the proceedings.

Let me contrast that with my experience when the legal action moved to Douglas county. Before any proceedings began, I received a call from the victim/witness advocate in the county attorney's office, who explained that she was responsible for keeping me informed about the case. She gave me her home and office phone numbers and told me to call anytime I felt I needed to. And she DID keep me informed...and I assume she did the same for the other survivors. Sometimes I knew about developments before our special prosecutor, because she communicated by phone and his information came by mail. She was my life-line for the time I was involved in the Douglas County hearings and trial. When I wanted to talk directly with the county attorney, she arranged an appointment. He was always willing to see me or talk with me on the phone. I felt as though I were an integral part of the proceedings and as if I were an asset instead of a nuisance.

Although the present system may work, it works only if the prosecutor wishes it to, and the victim has little recourse. Victims need the protection of a constitutional amendment to ensure that their rights will be honored.

Verne Bennett Horne
1305 Lakeside Drive
Topeka, KS. 66604-2581
(913) 273-1291

Michael D. Solaberr
5516 Juniper
Roeland Park, KS 66205
(913) 831-1808

Senate Concurrent Resolution 1634

Lawmakers of Kansas:

Thank you Mr. Stephan to introduce Resolution 1634.

My family and I are crime victims. My daughter was murdered. She was stabbed 163 times. She had a daughter at that time she was 2½ years old. My wife found our daughters butchered body in the closet of her apartment.

As law abiding people, we did not know anything about the criminal law. As crime victims we learned about all of the rights we do not have. Basically, crime victims have no rights- They are told from the first moment on to go into their closets and keep their mouths shut.

The murderer that maggot- The disease that he has brought to our lives! And he has constitutional rights? He is protected by law- He is taken care of both physically and legally.

We crime victims try to help each other. We think of our loved ones. The law degrades us because we are crime victims. We are the second class citizens in the state of Kansas.

In my opinion, any one who has less rights than a convicted murderer- he is a degraded person. Degraded by the law and by his leaders.

If any one of you who has doubt in his mind- Step into this victims shoes and feel what we crime victims feel. Think of your loved one taken away from you and you be degraded for what he has done to you. The law adds insult to injury.

Too soon will come the day that he is freed from prison. We are asking you to give us crime victims Constitutional Rights. We want to know when he is up for parole hearings.

We want to be notified if he has any hearing at any time. We should not hear it through the media after the fact. We do not want to meet him on the street or in our house with the butcher knife in his hand.

We are not asking you to take away his rights. We are asking you to give us crime victims Constitutional Rights. I never heard of a case where the victims rights were violated. Who has no rights his rights cannot be violated.

Let there be crime victims rights in Kansas!
Let there be JUSTICE.



Senate Judiciary Committee
February 13, 1992
Attachment 7

February 7, 1992

State Judiciary Committee
State Capitol
Topeka, KS. 66612

When I first came to the United States of America and became a citizen I believed whole-heartedly that the words "and justice for all" stood for this country and it's people.

In 1979, after our 18 year old daughter was abducted and brutally raped and murdered, I consequently came in very close contact with the justice system. She was slain by two individuals, one of which (although just as guilty), plea-bargained and came away with a much lesser sentence (5 to 20 years twice consecutive) and already had his first parole hearing in 1985---just 6 years after committing an unbelievably vicious crime. His parole hearing came up again in 1987, 1989, and 1991, when fate intervened and he was killed in an industrial cave-in while in prison.

I still find it hard to believe that I, the victim's mother, had to (with the support of friends) try to convince the parole board that a vicious killer and rapist should not be turned loose on society. I know from attending four (4) public comment sessions, just how horrible such hearings affect the victim's family. After anxiously waiting for the Board's decision I was told that the convict has the right to be notified first. This stinks!!

Since I worked for several years for the Kansas State Penitentiary in Lansing, Ks. (Accounting Office), I am familiar with prison environment, and I am positive that the convict does indeed have more rights than the victim and their families. A murder has a devastating impact on the lives of the victim's family (the actual victim usually having been killed), and yet the system does little or nothing to meet their needs. Where was the victim's right-----the right to live-----and to not be raped, sodomized, and finally killed?

Just how cheap are the lives of our children? I suggest the committee attend a P.O.M.C. meeting (Parents of Murdered Children) and see for yourselves the heart-break, tears, helpless frustration and anger-----how dared they ~~to~~ take our kids!!!!

Since there is no way ever to fully compensate victims of violent crimes for their loss, at least treat them with the same fairness, sensitivity and degree of concern that is shown to the offender.

Respectfully,

Dee Story
DEE STORY
1814 Cedar
Independence, Mo. 64052

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Attachment 8*

9
GOOD MORNING, SENATORS.

My name is Winter Joy Parnell, and I am 12 years old. On July 5, 1989, I was a victim of rape by a 14 year old boy. I reported the rape to my mother within 15 minutes and made a statement to the Linn County Under-Sheriff plus had a rape test done at my doctor's office within one hour of the rape.

Next I was interview again by the Linn County Under-Sheriff and a SRS agent. I really believe that after that he would be arrested, put in jail, and punished for hurting me.

But within the next 9 months, I was attacked by rocks, tormented by him standing at the edge of my yard and just watching me, and on March, 1990, He push me into a brick wall from behind and tell me I would pay for telling, and one day he would really get me good. Each time I reported it. I did also visit the County Attorney office and was told there was no point in talking with me, because he had my statement. Plus after the attack in March, the County Attorney said he would not file the new battereny charges because the young man had pleased guilty to three sounts, but not one of them was rape. Not once did they talk or ask me if I wanted the charges dropped. He also told my mother that the judge would put a resistance order in his sentense, so I believe him.

But for the next 6 months, I would see him in town and when we called and asked why? We were told he had a pass. When in August of 1990, the bottom dropped out, I learned that he got a

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Attachment 9

10 day pass to attend the County Fair. It really hurt me, Because I had done nothing wrong, and he was going to get to go the the fair. I started to cried and told my mother that I feel like a victim again, because I felt like no one cared if I like him being out on passes, I had believe that the law would keep me safe, but that was no true. All I felt now was hurt and like no one cared about me.

When I got angry and asked my mother to help me, because I know that no one would listen to a kid. So I had her write a letter for me. I sent 3 copys: Gov. Finney, Senator Walker, And State Rep. Teagarden, and ask for help. I also hired a lawyer and got the right to be notice when he got his passes. I learn thur my lawyer that he had ran on his last pass and the Sheriff office had pick him up and took him to a boys' home in Western Kansas, and there was no resistance ordered by the judge.

Right now he is home and I am again unsafe. I know there is nothing you can do about what I have gone thur, but now somewhere in Kansas other kids will be treated the same way and if so, then there is something very, very, very wrong about the law system. Sure we may be just kids but we so know things and someone should listen and understand that there is a real fear, and we have the right to feel safe again. Only we know the hurt and pain inside us and we should have the right to be heard. Today I don't feel safe but maybe you will hear me and chage things for the other vicrimis in Kansas.

No one should have to feel the way I do, and only hope no one will again. I still believe in the saying "Don't do the Crime, If you don't want the time. Please help the victims and their Families.
THANK YOU.

10
In 1987 I was kidnapped at gun point and severely beaten by my ex-husband James Brown. He was charged with attempted murder one, aggravated kidnapping and aggravated burglary and recieved a 10-20 year sentence for a reduced sentence of kidnapping.

I have been in constant communication with the D.A.'s and Parole office to let them know of the threats made by James while at the Hutchinson facility and to notify them of my name and address change. I also was very explicit in letting them know that I feared for my life and the lives of my family. I was assured that I would be notified of any changes in James's status.

On April 15, 1991 I was contacted at my job by Mr. Coloman of the Topeka Correctional Facility to tell me that James was in Topeka on a work release program, that his sentence had been reduced and that his parole hearing had been changed. Mr. Coloman had just happened to look up my number in the phone book. This was very distressing to me, I had not been notified of any changes. Mr. Coloman was able to get James transferred to Wichita at my request.

I began calling everywhere trying to find out why I had not been notified of these changes. I was told by the D.A.'s office that it was the Dept. of Corrections job to contact me, The Correctional Facility told me that it was the D.A.'s job to contact me, the Dept. of Corrections told me that it was the parole boards job to contact me. I have given you copies of the papers I recieved with the discrepancies.

On May 5, 1991 I called Mr. Sparkman of the Parole Board to find out when the Parole hearing was to be held. He told me that he didn't know when the hearing was but according to his records James was still in Topeka and had been since April 8, 1991. I told him of the paper I recieved stating that James was moved to Wichita on April 25. He then made a few calls and then told me he really didn't know where James was. I can not tell you how much physical and emotional stress that I suffered thru out this entire ordeal.

No one should have to suffer the stress and frustration that I have been thru. The entire penal system needs to be completely overhauled and to work for the benefit of the victims who have suffered enough at the hands of the criminals.

P.S. Feel free to contact me if you have any questions. Being limited to a 3 minute talk, I am not able to tell of all the incidents and foul-ups that occurred.

Ellen Radford
153 N.E. Coachlight dr.
Topeka, Kansas 66617
(W) 267-0242 (H) 235-8368

Senate Judiciary Committee

February 13, 1992

Attachment 10

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

Landon State Office Building
900 S.W. Jackson—Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Joan Finney
Governor

Steven J. Davies, Ph.D.
Secretary

May 22, 1991

Ellen Radford
153 N. E. Coachlight Dr.
Topeka, KS 66617

Dear Ms. Radford:

Your letter to Governor Finney regarding James Brown, an inmate at the Wichita Work Release Facility, has been referred to my office so that I may respond on the Governor's behalf.

In February 1988, Mr. Brown's sentence was modified by Shawnee County District Court from 10 - 20 years to 9 - 20 years. By statute, he will be eligible for parole in July 1991. The hearing before the Kansas Parole Board will be held in June. It will be at the discretion of the parole board whether or not parole will be granted. Prior to the parole hearing, a parole officer speaks with the victim(s) of the crime for which an inmate is incarcerated in order to solicit opinions regarding the possible release of the inmate. This has been done in your case, and your comments to the parole office will be available for the members of the parole board to consider prior to Mr. Brown's hearing. The letters you have written are likewise available to the Kansas Parole Board.

You may also wish to consider attending the Public Comment session scheduled May 28, 1991, 9:30 - 11:00 a.m., at the Topeka Public Library. This will afford you the opportunity to meet with members of the parole board personally to express your feelings regarding Mr. Brown.

The Kansas Department of Corrections is responsible for notifying you in the following situations:

1. Release by parole, conditional release, or expiration of maximum sentence;
2. Transfer of the inmate to work release;
3. Placement of the inmate in the Community Reintegration program; and
4. Release on programmatic or emergency furlough.

10-7/5

May 22, 1991

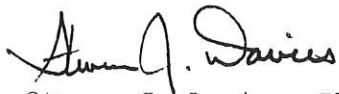
5. Assignment to a work program when the inmate would be placed in direct contact with the public, and would not be under the immediate supervision of a KDOC employee.

To insure that we are able to locate you, please advise the District Attorney if you should change addresses.

I hope that this response has answered some of your concerns. If you should have any further questions, I encourage you to contact Ms. Roxey Smith of my staff at (913) 296-3317 if you have additional questions.

I appreciate the opportunity to clarify the Department's position in this matter.

Sincerely,



Steven J. Davies, Ph.D.
Secretary of Corrections

SJD:RDK:RLS:psr

cc: Betsy Gillespie, Warden - WWRF
KDOC Inmate File
File



KANSAS DEPARTMENT OF CORRECTIONS

JOAN FINNEY, GOVERNOR

STEVEN J. DAVIES, Ph.D., SECRETARY

TOPEKA CORRECTIONAL FACILITY - 815 S.E. RICE ROAD

TOPEKA, KANSAS • 66607
• 913-296-7211 •

Leo (Lee) Taylor — Warden

Dave Colman called 4-18-91

April 17, 1991

Ellen A. (Brown) Redford
153 NE Coachlight Dr.
Topeka, Kansas 66617

Talked to Mr. Sparkman on ~~5-10~~ 5-10-91 and his records say inmate was still in Topeka and had been since 4-8-91.

Dear Mrs. Redford; *Radford*

Out of concern for you, and pursuant to existing state law, I wish to inform you of the scheduled release of an inmate currently confined at the TOPEKA CORRECTIONAL FACILITY, TOPEKA, KANSAS.

Please be advised that on or about April 25, 1991, inmate James Brown, KDOC # 45131 will be released to the community via;

- | | |
|---|--|
| <u>Community Program</u>
(WICHITA WORK RELEASE) | <u>Release from Confinement</u> |
| <input checked="" type="checkbox"/> Placement in Work Release | <input type="checkbox"/> Parole To Supervision |
| <input type="checkbox"/> Placement in Community Reintegration Program | <input type="checkbox"/> Conditional Release |
| <input type="checkbox"/> Other (Specify Below) | <input type="checkbox"/> Service to Maximum Term |
| | <input type="checkbox"/> Release on Furlough |

In cases where an inmate is placed in a work release program, the inmate may be granted furloughs as part of the Work Release Program without further notice.

The above notification is in accordance with KDOC Internal Management Policy and Procedure #05-108, as per the requirements of KSA 22-3718.

Sincerely,

Patti Cowsert
Patti Cowsert
TCF-WU Records Officer

*Parole Board
DA
Sec of Corrections*

ASSISTANT DISTRICT ATTORNEYS

C. William Ossmann
Randy M. Hendershot
James J. Welch
Sue Carpenter
Jean M. Schmidt
Steve M. Howe
David B. Debenham
Debra L. Billingsley
Margaret A. Lutes
Michelle M. Torres
Timothy H. Henderson

Gene M. Olander

District Attorney

Kansas Third Judicial District

Suite 212 • Courthouse • Topeka, KS 66603 • 913/291-4330

OFFICE MANAGER/VICTIM
WITNESS COORDINATOR
Kathy Murphy

INVESTIGATORS
Donald M. Murphy
William T. Thoman

May 14, 1991



Ellen Radford
153 N.E. Coachlight Dr.
Topeka, Kansas 66617

RE: State of Kansas v. James F. Brown
Case No. 87-CR-88

Dear Ms. Radford:

You are hereby officially notified that Mr. Brown's parole hearing will be held on May 28, 1991, commencing at 9:30 a.m., at the Topeka Public Library Auditorium located at 1515 W. 10th Street.

I am notifying you by letter rather than by our usual post card which I am sending out today to the other victims concerned with hearings on the same date.

Please be advised this office has no knowledge of where Mr. Brown is physically located or transferred to while in the system nor does the Parole Board. That is a matter within the discretion of the State Department of Corrections. Our job is to notify you of any upcoming parole hearings which we are doing with this letter.

In addressing your other concerns, the sentence originally imposed by Judge Macnish on April 6, 1987, was a ten to twenty year sentence which was modified by Judge Macnish on February 4, 1988, to a nine to twenty year sentence. As Mr. Brown has been continuously in custody since January 12, 1987, he has served one half of the nine year minimum sentence and by law is eligible for parole in July of this year. That does not mean that he will get it. If you feel strongly about this matter, I urge you and your family to appear at the hearing and make your feelings known.

This office will notify you of any future parole hearings if any are scheduled.

Very truly yours,

Gene M. Olander
District Attorney

10-4/5



KANSAS DEPARTMENT OF CORRECTIONS

JOAN FINNEY, GOVERNOR

STEVEN J. DAVIES, Ph.D., SECRETARY

LONDON STATE OFFICE BUILDING — 900 SW JACKSON
TOPEKA, KANSAS — 66612-1284
913-296-3317

May 10, 1991

Mrs. Ellen Radford
153 N.E. Coachlight Dr.
Topeka, KS 66617

*I was told by the
Correctional facility
that the D.A.'s office
was responsible for contact
me. 5-13-91*

Dear Mrs. Radford:

This is in response to your letter addressed to Mr. Ramos concerning inmate James T. Brown, #45131.

The Department of Corrections has policies and procedures on victim notification. Each correctional facility has the responsibility of notifying victims of violent crime on inmate movement. Parole services has the responsibility of notifying victims of violent crime at the furlough or pre-parole investigation level.

Now the Kansas Parole Board has the responsibility of paroling or denying parole to inmates when parole eligibility is reached. Prior to any parole hearing a parole officer will contact you for the primary purpose of soliciting your comments. Your comments are kept confidential and are reported to the parole board for their consideration.

I sincerely hope that I have been able to answer most of your questions. Let me assure you that the Secretary of Corrections is committed to responding to victim concerns.

Sincerely,

JIM TERRONES
Director of Parole
Policy and Procedure Development and Training

JT/el
cc: Inmate File



Equal Opportunity Employer

10-5/5

VICTIM'S RIGHTS CONSTITUTIONAL AMENDMENT LEGISLATIVE
HEARING; SENATE JUDICIARY COMMITTEE, TOPEKA, KS
2/14/92

Victim's Rights: Who's a victim, are you listening?

Not me! I could never be a victim. I didn't have time. I was an athletic college student who had everything going for her. I had a loving traditional family that supported me and a protective older brother who was always there for me. I was an active and outgoing. I knew what my goals were and was determined to achieve them. I was in love with life. In just 24 hours every was taken from me. I was physically and emotionally brutalized. I became a victim. I stand before you as a victim and take the liberty to represent other victims who can not take a stand. Just 9 months have passed since that horrible experience. My last hearing was 2 weeks ago and the person who brutalized me has the freedom of probation after serving less than two months of a one year sentence. That chapter of my life has passed, the painful trial and hearings have concluded and I guess in some way justice was served. As each day passes the wounds slowly heal and the memories fade. I believe I must take this painful experience and use it to educate others as to the needs of victims and attempt to positively impact the rights of victims.

I am here today because I feel it is vital that you hear and see the positive effects that sensitivity and respect can provide for victims by allowing them to regain the dignity and strength taken from them at the time of their victimization. As a victim, my first resource was MOCSA, from there I made contact with the police department and filed a statement. As my case developed, I kept in constant communication with both MOCSA and my detective. I was continually kept up to date. I was informed when this person was questioned, when this person did not pass the poligraph test, when this person was arrested, what bail was set and when this person was released on bail. These events held extreme significance for me as a victim, because the act of victimization forces one into a passive state. This was my life and I could not be a passive observer. I needed to be involved. Once my case reached the district attorney's office, I was provided an excellent lawyer and several more advocates through the victims assistance program. I was informed by mail and phone of every crucial step and had the opportunity to be present and discuss my concerns personally with the district attorney, my attorney and my own victim's assistance advocate who

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knew my case and was sensitive to my needs and the needs of my family. My victim's impact statement was used during the sentencing, alleviating me from recalling the painful memories. I must commend MOCSA, the police dept, the district attorney and victim's assistance program located in the district attorney's office for their sensitive, yet effective actions involving my case. Without them, I would not be where I am today, successfully moving on with my life goals and standing before you to support the Victim's Right's Amendment.

Unfortunately, I've come to realize that my positive experience is not the norm. Many times the crime overshadows the victim and the victim's concerns are lost in the legal process. That in itself is a crime. The Victim's Rights Amendment will ensure fair treatment for victims by allowing them to be involved in all critical stages of case proceedings. I truly believe it this amendment will not only provide comfort to the victim, I also believe it will benefit every community. When an individual is victimized, so is his/her family and friends and ultimately the community. No one can deny that pain inflicted on one is felt by all who care.

Now who is a victim? We all instinctively say not me! I don't blame you, I did too! The common reasoning is if you don't go out looking for it, and you take normal precautions it won't happen to you. However, a crime occurs every 5 seconds, a child is abused or neglected every 47 seconds, a forceable rape occurs every 6 minutes, (1 in three women will be assaulted during her lifetime) and one murder occurs every 24 minutes. On the other hand in a typical year there are 8.1 million serious crimes, such as murder, assault and burglary. Only 724,00 adults are arrested. Only 193,00 of these are convicted. Only 149,00 of them go to prison and 36,000 serve less than one year. Now I ask where is the balance? From these statistics the odds definitely rest with the criminal. Let's return to the question who is a victim? The answer is you, your family, and members of your community.

Now I ask you what is a victim and why does a victim need an amendment to uphold his/her rights? Though this sounds like a simple question, one can never describe or truly understand the trauma, pain and anguish of a victim unless he/she has been victimized. One is never prepared to become a victim. If we have the strength and support behind us, we rest it in the hands of the proper authority and trust in our justice system. However, I have learned this trust is many times betrayed and it is unacceptable. When you become a victim, all your power and sense of self has been torn from you. The wounds are vitally deep and it is critical that

you are able to regain strength and control over your life if the healing process is to begin.

Yes, it is true that there are laws to protect victims and keep them informed during the judicial proceedings of the case. In reality, since there are no penalties for failing to inform the victim it is all too common that the victim remains helpless and powerless in merely gaining information regarding the case. The Victim's Rights Amendment will not supply a miracle or much more than what is already available, it will merely ensure that victims receive the dignity and respect due to them.

I leave you with the question, "Who am I"? I am a victim. However, I may be your daughter, I may be your sister, I may be your friend. I may be your neighbor. I may be you. Who I am is for you to decide and how they will be treated is inturn your decision. I am a victim, but I am also a person who deserves to be treated with dignity.

Sincerely,

A Victim

FOR MORE INFORMATION

Gest, T., Ellis-Simmons, P., Minebrook, S., Moncreiff, A., Victims of Crime (July 31, 1989). U.S. News & World Report p16-19.

Facts About Sexual Assault Office of Attorney General Robert T. Stephan Victim's Right's Program. 1-800-828-9745

Overview of Crime and Victimization in America National Victim Center 307 W 7th st Suite 1001 fort Worth, TX 76102.

Crime Victim's Rights: Rebalancing the Scales. The Council of State Governments p107-109. for more info write The Council of State Gov.
Iron Works Pike, P.O. box 1190 Lexington, KY 40578 (606)-252-2291

On April 18, 1991, my son was violently murdered. The accused received a life sentence.

The District Attorneys office kept us informed of all court appearances and plea bargaining proposals. We were some of the lucky ones. Some victims and families of victim's are not kept informed. The only information they receive is through the news media.

Don't we as victim's have the right to know of all court proceedings concerning our case?

As violent crimes increase, laws should change also. What rights we had 5 - 10 years ago should not and must not remain the same. Times keep changing and so do the number of crimes. That is why the Senate Concurrent Resolution 1634 should be passed. It is hard enough on the victim's (should they survive) and their families to deal with everything that occurs after a violent crime. Why add to our misery. We're the ones it is committed against. We should have as many rights as the accused. Not less. I implore you to pass Senate Concurrent Resolution 1634, for people like us, the victim's. We may be few in numbers, but it shouldn't make our rights any less.

Thank You

In memory of my son, Kenneth L. Mallott.

AS A FOOTNOTE: I WAS ASKED BY AN OFFICIAL FROM A LAW ENFORCEMENT AGENCY, THAT IF THE RESOLUTION IS PASSED TO INCLUDE A REQUIREMENT THAT THE COUNTY GOVERNMENTS PROVIDE SUFFICIENT FUNDING TO HIRE AND MAINTAIN THE PERSONNEL IN THE DISTRICT ATTORNEYS OFFICES TO COMPLY WITH MODIFICATIONS.

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Donna Lair

February 13, 1992

To: The Senate Judiciary Committee
From: E. Ceasus Tyree, Wichita, Kansas
Subject: SCR 1634 Constitutional Amendment

Please, allow me first to introduce myself. I am Ceasus Tyree, from Wichita's Northeast Community. I am a volunteer in the HOOP (Helping Our Own People) program. This is an organization designed to recruit volunteers to counsel with older persons, who are in some way entrapped in the maze of our society. I am a member of the Silver Haired Legislature; representing the 29th Senatorial District.

Let me say that I, in no way speak for the Silver Haired Legislature. I only refer to my position to give you some idea of my perspective and experience.

I appreciate the opportunity to offer comments on SCR 1634, and the subject of victims' rights, generally. The discussions surrounding protection of the innocent and punishment of the guilty, are not new. They are as old as the Laws of Moses, and before him, Hammura 'Bi. The most primitive form of government had as its primary function, the protection of its subjects from the enemy from without or within. Defense of the innocent took a higher priority, than punishment of the guilty. Punishment was not so much for punishment's sake, but as a deterrent. Punishment was used to make crime unprofitable or inexpedient. The focus of concern, was on the victim or those who may become victimized. That cardinal principle should not and must not be lost, or the country is done for. We have allowed crime to become profitable, because our focus is more on seeing that the rights of the guilty are not violated, rather than that the victim's person is not violated.

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Let me relate just two incidents, that are typical of what people talk to me about:

One woman, Frances Edwards (age 84 at the time), was mugged and robbed in her own home. She was put in financial difficulty, until her next Social Security check came. But the pathetic part of it was, that she was afraid to identify the culprit for fear of reprisal.

Similarly, the case of Clark Hall, one of my clients in the HOOP program, (c 78 at the time), who was brutalized and robbed twice in two years. He was afraid to identify the culprit, even though he saw him quite frequently. The robberies ceased after a public service nurse persuaded him to have his check sent to the bank, and to allow her to put a sign on his door stating that fact.

It concerns me, that these helpless people are afraid to trust our government to protect them. But it alarms me to see the growing numbers of people, that I talk with, who are not as physically disabled, as the two just mentioned, and express the idea of taking things into their own hands.

The petitions that come out of the Attorney General's office, gave me an opportunity to test the climate on this matter. I found that with minimal effort, I was able to collect (120) signatures. I recall that there were three people, who refused to sign, one came back later and asked to sign, but my supply of petitions had been used up.

This is an idea whose time has come. The question is, how much more frustration and suffering are we going to allow? But more than that, ^{how} have much more frustration and suffering, is John Q. Public, going to tolerate, before he says "ENOUGH", and take matters into his own hands?

Therefore, I respectfully request that you send SCR 1634, to the Senate floor, with the recommendation, that it be enacted into law.

Thank you for considering my comments.

ECT/lh

FEB 5 12 37 PM '92

Alice D. Moore
219 W. Forest
Pittsburg, KS 66762
316-231-9624

The Attorney General's Victim's Rights' Task Force
% Robert T. Stephan, Attorney General
State of Kansas
2nd Floor, Judicial Center
Topeka, KS 66612-1597

The following is my testimony to the Criminal Justice System:

My name is Alice Moore. I'm a resident of Pittsburg Kansas and a home owner. I have lived at the same residence since 1955.

Yes, I am definately in favor of a Victims Rights Constitutional amendment, My reasons follow why I'm in favor of the aforementioned amendment.

Our home sits on a forty foot lot, due to the constant harrassment from the neighbor on our immediate west has rendered our west and front yard unusable. Anything planted in this area has been destroyed along with family pets that was housed outside.

To insure our family safety, we found it necessary to install a six foot chain link fence between the two properties and a four foot chain link fence across the front and down the east side of our property. The gates are locked at night and when we are absent from the premises. We have since found that this would not deter him.

A crime was committed on May 1, 1990 and in April 1991, Noah H. Chambers was found guilty of a felony and placed on probation for a six month period.

Another crime was committed in September 1991 while he was still on probation. On January 8, 1992, Mr. Chambers was found guilty of malicious destruction of private property and again placed on six month probation.

It is apparent that being fined and placed on probation does not deter him. HOW MUCH MORE DO WE HAVE TO ENDURE!

He was not put on probation. He paid Court cost & was released \$142 cost

Alice D. Moore
Alice D. Moore

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Attachment 14.

SENATE CONCURRENT RESOLUTION 1634

Senate Judiciary Committee Members

Under the Constitution, much care has been given to protect the rights of defendants as he/she moves through the legal system. We have come to the time that we must ask ourselves what happens to the victim in this process. What rights are guaranteed to victims?

Currently in Kansas, victims do not have rights guaranteed as in the case of defendants. We must do something about this.

The State of Kansas has the opportunity to be a leader in the cause of victim's rights. Only eight states have a constitutional amendment for victims of crime. Kansas can provide a balance in the justice system with a guarantee to victims of crime that they will have a voice as the crime committed against them moves through the legal system.

A crime victim's rights have been violated from the moment that the crime began. The cooperation of the victim is expected by the legal system to prosecute the crime. It is time to cooperate with the VICTIM of crime and return dignity and respect to the victim as she/he is involved with the system.

In working with victims of sexual assault, I see many women who have had control of her life taken away by the crime. The system can offer back some control in that person's life and contribute to her recovery process by providing a voice in the legal process.

I urge you to pass this resolution allowing the constitutional amendment to be placed on the November 1992 ballot. Allow crime victims the choice to be heard.

Respectfully submitted,

Kathy Williams
Coordinator of Victim Services
Wichita Area Sexual Assault Center
Wichita, KS

*Senate Judiciary Committee
February 13, 1992
Attachment 15*



**Kansas
Child Abuse
Prevention Council**

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James McHenry, Ph.D.

Testimony in Support of
the Victims' Rights Constitutional Amendment
SCR 1634

On January 17, 1992, the Board of KCAPC voted unanimously to endorse the proposed Victims' Rights Constitutional Amendment. KCAPC believes this action represents a positive move in creating a climate more responsive to the needs of crime victims.

In recent years, KCAPC has become aware of instances in which confirmed evidence of child abuse was removed from petitions going to judges. Whether by inadvertence or design, such actions deprive judges of information critical to their decision-making process. For the children involved, their right "to be heard at all critical stages of the criminal justice process" is clearly compromised when significant findings are expunged from the case record.

KCAPC does not believe the proposed amendment is a panacea. We do believe, however, that anchoring victims' rights into the Kansas Constitution serves the public interest, and we urge your approval of SCR 1634.

Testimony submitted by James McHenry, Ph.D.
Executive Director
February 13, 1992

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Written Testimony Submitted to the Senate Judiciary Committee
February 13, 1992

As the past Executive Director of the Wichita Area Sexual Assault Center, I want to encourage your support of the Victims' Rights Constitutional Amendment. I believe your support of this amendment would send a strong message to the victims all over the state of Kansas as well as other states that look to Kansas as a model for victims' legislation.

I worked with victims of sexual assault/abuse for approximately ten years. Many of those victims would not cooperate in any way with law enforcement or the judicial process. The reason being they felt they would either be re-victimized or their cooperation made no difference. This reasoning allows many repeat offenders to remain on the streets.

A victims' rights constitutional amendment would begin to give victims a sense of entering the judicial process on an equal level with offenders. Those accused of crimes are guaranteed specific rights through the Constitution. Those traumatized as victims of crime deserve to be guaranteed the right to be informed of, to be present at, and to be heard at all critical stages of the criminal justice process.

As a victim advocate for ten years, I saw many reasons for a Victims' Right Constitutional Amendment. I saw many people who need and deserve to have their rights constitutionally guaranteed. I urge your support of the proposed Victims' Rights Constitutional Amendment. Thank you.



Kris Wilshusen
837 Wiley
Wichita, KS 67203

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Attachment 17*