



U.S. Department of Justice

Office of Justice Programs

Office for Victims of Crime

Washington, D.C. 20531

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Dear Colleagues and Friends:

The Office for Victims of Crime (OVC) is pleased to provide you with this supplement to the 2006 National Crime Victims' Rights Week Resource Guide.

The supplement provides an opportunity for OVC to highlight the recent landmark opinion issued by the U.S. Court of Appeals for the Ninth Circuit, which upheld the right of crime victims to speak at a convicted criminal's sentencing hearing, and to summarize key victims' rights accomplishments achieved in the course of the last 5 years.

In Kenna v. U.S. District Court for the Central District of California, the court considered whether the Crime Victims' Rights Act, 18 U.S.C. Section 3771, gave victims the right to speak at sentencing hearings. The case involved a father and son who swindled dozens of victims. The defendants pled guilty to wire fraud and money laundering. Over 60 victims submitted victim impact statements. At the father's sentencing several victims spoke about the effects of the crimes. At the son's sentencing, however, the judge refused to allow the victims to speak. Fortunately, the Court of Appeals held that the district judge had made a mistake. In its decision, the appeals court made the following three important points:

- (1) In passing the Crime Victims' Rights Act, it was the intent of Congress to allow victims to speak at sentencing hearings, not just to submit victim impact statements.
- (2) Victims have a right to speak even if there is more than one criminal sentencing. The court noted, "The effects of a crime aren't fixed forever once the crime is committed — physical injuries sometimes worsen; victims' feelings change; secondary and tertiary effects such as broken families and lost jobs may not manifest themselves until much time has passed. The district court must consider the effects of the crime on the victims at the time it makes its decision with respect to punishment, not as they were at some point in the past."
- (3) The remedy for a crime victim denied the right to speak at a sentencing hearing is to have the sentence vacated and a new sentencing hearing held in which the victims are allowed to speak.

President Bush has been a staunch and consistent supporter of rights and services for all crime victims. Time and again, he has demonstrated his support for programs,

policies, and legislation that responds to the degradation of violence against women, combats the scourge of human trafficking, promotes protections for child victims, establishes interventions on behalf of victims of identity theft, creates statutory protections for victims, and supports efforts to secure rights for crime victims in the U.S. Constitution.

The 2006 commemoration of National Crime Victims' Rights Week is a fitting time to pause and reflect on the advances achieved on behalf of our Nation's crime victims. We encourage you to share information about this recent effort to protect victims' rights and about the numerous accomplishments that have advanced victims' rights and services to date. In the weeks and months ahead, please consider incorporating the information contained in this supplement to the 2006 National Crime Victims Rights' Week Resource Guide in your speeches, press releases, and commemorative programs.

Thank you for all that you do on behalf of crime victims.

Sincerely,



John W. Gillis
Director

Enclosure

MILESTONES IN THE NEW MILLENNIUM

SPECIAL SUPPLEMENT TO THE 2006 NATIONAL CRIME VICTIMS' RIGHTS WEEK RESOURCE GUIDE

“When our criminal justice system treats victims as irrelevant bystanders, they are victimized for a second time.”

— **President George W. Bush**



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2001

- President Bush signs the Air Transportation Safety and System Stabilization Act, which contains funding for victim assistance, tax relief for victims, and other accommodations and protections for victims, as well as a new federal victim compensation program specifically for the victims of the September 11 terrorist attacks.
- President Bush signs the USA PATRIOT Act of 2001, which amends the Victims of Crime Act (VOCA) by increasing the percentage of state victim compensation payments reimbursable by the federal government and allowing OVC to fund compliance and evaluation projects.

2002

- In April, President Bush attends the presentation of the National Crime Victims' Rights Week (NCVRW) awards and announces the administration's support for the proposed Crime Victims' Rights Amendment to the U.S. Constitution.
- In October, President Bush hosts the first White House Conference on Missing, Exploited, and Runaway Children and announces his strong support for the Hutchison-Feinstein National AMBER Alert

Network Act of 2002, which would help develop, enhance, and coordinate AMBER (America's Missing: Broadcast Emergency Response).

2003

- President Bush signs the PROTECT Act of 2003—also known as the “AMBER Alert” law—which creates the AMBER national network to facilitate rapid law enforcement and community response for kidnapped or abducted children.
- In November, President Bush signs the Fair and Accurate Credit Transactions Act, providing new protections against identity theft, as well as provisions to help victims of identity theft recover from their financial losses.

2004

- The Trafficking Victims Protection and Reauthorization Act is signed by President Bush. Along with reauthorizing programs created under the earlier act, it includes provisions to strengthen prevention efforts, increase the prosecution of offenders, and increase protections for trafficking victims.
- President Bush attends the Human Trafficking Into the United States: Rescuing Women and Children from Slavery training conference in Tampa, Florida.
- Legislation is signed by President Bush that defines aggravated identity theft and establishes penalty enhancements for such crimes. For instance, under the law, offenders who steal another person's identity information in connection with the commission of other specified felonies (such as crimes relating to immigration, nationality, citizenship, and various forms of fraud) would be sentenced to an additional 2 years in prison. The legislation also prohibits the court from

Milestones in the New Millennium (continued)

ordering an offender's sentence for identity theft to run concurrently with a sentence imposed on the same offender for any other crime.

- President Bush ensures substantive rights for crime victims across the Nation when he signs the Justice for All Act into law. This omnibus crime legislation, which includes the Crime Victims' Rights Act (CVRA), authorizes \$155 million in funding over the next 5 years for victim assistance programs at the federal and state levels. The legislation enacts the Debbie Smith Backlog Grant Program, which provides \$755 million to test the backlog of over 300,000 rape kits and other crime scene evidence in crime labs across the country. It also authorizes more than \$500 million for programs to improve the capacity of crime labs to conduct DNA analysis, reduce backlogs, and train examiners. Additionally, it includes the Kirk Bloodworth Post-conviction DNA Testing Program, which authorizes \$25 million over 5 years to help states pay the costs of post-conviction DNA testing, among other provisions.

2005

- In May, the updated *Attorney General Guidelines for Victim and Witness Assistance* is published. The guidelines incorporate provisions for crime victims' rights and remedies, including the CVRA, which have been enacted since the publication of the last edition. The guidelines also include new direction on human trafficking and identity theft victims.
- In September, the Department of Justice announces more than \$84 million in DNA grants nationwide as part of President Bush's DNA Initiative, Advancing Justice Through DNA Technology. The initiative is a 5-year, \$1 billion commitment to improve the Nation's capacity to use DNA evidence by eliminating casework and convicted offender backlogs; funding research and development; improving crime lab capacity; providing training for all stakeholders in the criminal justice system; and conducting testing to identify missing persons.

2006

- In January, the Violence Against Women Act of 2005 is signed into law by President Bush. This bipartisan extension of the Violence Against Women Act (VAWA), first enacted in 1994, includes provisions for early intervention, prevention, and health care, and promotes a national commitment to keep women and children safe from fear and abuse.
- President Bush signs the Trafficking Victims Protection Reauthorization Act of 2005 into public law in January. This law, among other activities, amends the Trafficking Victims Protection Act of 2000 to promote efforts to fight domestic trafficking in persons.
- Attorney General Gonzales commemorates the 10-year anniversary of the AMBER Alert program in January.
- In late January, the United States Court of Appeals for the Ninth Circuit decides *Kenna v. U.S. District Court for the Central District of California*, in which the court considered whether the Crime Victims' Rights Act (CVRA), 18 U.S.C. Section 3771, gave victims the right to speak at sentencing hearings. The case involved a father and son who swindled dozens of victims. The defendants pled guilty to wire fraud and money laundering. More than 60 victims submitted victim impact statements. At the father's sentencing several victims spoke about the effects of the crimes, but at the son's sentencing the judge refused to allow the victims to speak. The Court of Appeals relied heavily on statements made by U.S. Senators Jon Kyl and Dianne Feinstein, sponsors of the CVRA, and held that the district judge had made a mistake. In its decision, the appeals court made the following three important points: (1) in passing the Crime Victims' Rights Act, it was the intent of Congress to allow victims to speak at sentencing hearings, not just to submit victim impact statements; (2) victims have a right to speak even if there is more than one criminal sentencing; and (3) the remedy for a crime victim denied the right to speak at a sentencing hearing is to have the sentence vacated and a new sentencing hearing held in which the victims are allowed to speak. This decision is an important step in securing the rights of crime victims.