



OVC Fact Sheet

APRIL 2006

THE JUSTICE FOR ALL ACT

What Is the Justice for All Act?

The Justice for All Act of 2004 (H.R. 5107, Public Law 108-405) (the Act) was signed into law by President George W. Bush on October 30, 2004. The Act contains four major sections related to crime victims and the criminal justice process. Some of the purposes of the Act are to protect crime victims' rights, eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, and improve and expand the DNA testing capacity of federal, state, and local crime laboratories.

The first section of the Act establishes the rights of crime victims in federal criminal proceedings and provides mechanisms for enforcing these rights. The Act is the result of years of hard work by many individuals, and it is an important first step toward achieving true justice for victims of crime. Although the Act extends protections to victims within the federal criminal justice system, it is hoped that this legislation will serve as a model for states that have not yet enacted legislation establishing crime victims' rights.

What the Justice for All Act of 2004 Contains

- Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act
- Debbie Smith Act of 2004
- DNA Sexual Assault Justice Act of 2004
- Innocence Protection Act of 2004

The purpose of this fact sheet is to provide information about the Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act. Section 3771 (a) of this Act amends the federal criminal code to grant crime victims specified rights, including:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding or any parole proceeding involving the crime, or of any release or escape of the accused.

- (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- (5) The reasonable right to confer with the attorney for the Government in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

What the Act Accomplishes

The Act adds new victims' rights and modifies some of the existing rights. Most notable is the new right of victims

to be reasonably heard at any public proceeding involving release, plea, or sentencing. The Act also requires prosecutors to advise victims that they can seek the advice of an attorney with respect to the rights established by the Act. Although the Act does not provide grounds for a new trial, it allows victims to file motions to reopen a plea or a sentence in certain circumstances.

For purposes of the Act, a victim is “a person directly and proximately harmed as a result of the commission of a federal offense or an offense in the District of Columbia.” This language expands the definition of victim in the “Services to Victims” section of the Victims of Crime Act, which allows such services only for those who suffered “direct physical, emotional, or pecuniary harm.”

Asserting and Enforcing Victims’ Rights

The Act creates several enforcement mechanisms. Either the crime victim or the Government may assert the victim’s rights in the district court. If, after making a motion in the district court, a victim or the Government is not satisfied that the victim’s rights have been recognized, either may file a petition with the court of appeals. The court of appeals must issue a decision within 72 hours of filing, and if it denies the relief sought, must state clearly on the record in a written opinion the reasons for the denial.

Additional Provisions To Promote Compliance

The provisions of the Act require that within 1 year from the date of the Act’s enactment, the Attorney General

(1) designate an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of crime victims’ rights; (2) provide for additional training regarding crime victims’ rights; and (3) create disciplinary sanctions for Department of Justice employees who “willfully or wantonly” fail to meet their obligations to crime victims.

Provisions of the Act That Have Been Implemented

The Department of Justice issued a revision of the *Attorney General Guidelines for Victim and Witness Assistance (AG Guidelines)*. These *AG Guidelines* (www.usdoj.gov/olp/final.pdf) require responsible officials to report on their compliance to the Attorney General through the Director of the Office for Victims of Crime (OVC) by means of an Annual Compliance Report containing relevant data (including the number of crime victims offered services). The *AG Guidelines* require responsible officials to ensure that all employees whose primary responsibilities include contact with crime victims and witnesses receive a copy of these guidelines and that these employees be trained for no less than 1 hour within 60 days of assuming such responsibilities.

The *AG Guidelines* also require that these same employees undergo additional training within a reasonable amount of time if these guidelines or the law relating to victims’ rights change. The *AG Guidelines* also state that disciplinary action such as suspension or termination of employment may result if employees fail to comply with provisions of federal law for the treatment of crime victims.

Limitations of the Act

It should be noted that the Act does not create a separate cause of action to

allow a victim to file a lawsuit against the Federal Government if the victim believes that his or her rights have not been provided. In addition, the Act is not intended to impair prosecutorial discretion in the handling of the case. Finally, the Act does not create an attorney-client relationship between the victim and a representative of the Department of Justice.

Authorized Funding

In addition to the new rights it provides, the Act authorizes funding for the following:

- (1) Grants to state, tribal, and local prosecutors’ offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public and private entities, to develop, establish, and maintain programs for the enforcement of crime victims’ rights.
- (2) Grants to organizations that provide legal counsel and support services for victims in criminal cases, for the enforcement of crime victims’ rights in federal jurisdictions, and in states and tribal governments that have laws substantially equivalent to the provisions of the Justice for All Act.
- (3) Training and technical assistance to state and tribal jurisdictions that wish to craft state-of-the-art victims’ rights laws, and design compliance systems to ensure that those rights are enforced.
- (4) Enhancement of the Victim Notification System, which enables federal law enforcement to make sure that crime victims receive timely notification of all court proceedings, parole and probation hearings, and any release hearings.
- (5) The United States Attorneys’ Offices for Victim/Witness Assistance Programs.

Although the Act has authorized funding, to date, funding has not yet been appropriated by Congress.

First Test Case: January 2006

In late January, the United States Court of Appeals for the Ninth Circuit decided *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.

For More Information

For more information about the Office for Victims of Crime, contact

Office for Victims of Crime
U.S. Department of Justice
810 Seventh Street NW., Eighth Floor
Washington, DC 20531
202-307-5983
Fax: 202-514-6383
Web site: www.ovc.gov

For copies of this fact sheet and other OVC publications or information on additional victim-related resources, please contact

OVC Resource Center
P.O. Box 6000
Rockville, MD 20849-6000
1-800-851-3420 or 301-519-5500
(TTY 1-877-712-9279)
Ask OVC: <http://ovc.ncjrs.gov/askovc>
Web site: www.ncjrs.gov

Or order OVC publications online at <http://ncjrs.gov/App/Publications/AlphaList.aspx>.

For information about training and technical assistance from OVC, contact

OVC Training and Technical Assistance Center
10530 Rosehaven Street, Suite 400
Fairfax, VA 22030
Phone: 1-866-OVC-TTAC
(1-866-682-8822)
TTY: 1-866-682-8880
E-mail: TTAC@ovcttac.org
Web site: www.ovcttac.org

The Office for Victims of Crime is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, and the Office of Juvenile Justice and Delinquency Prevention.



OVC's Web Forum

<http://ovc.ncjrs.gov/ovcproviderforum>

OVC's Web Forum allows participants to tap into a national network of people with various backgrounds but all facing similar challenges and experiences. It's the perfect place for crime victim service providers and allied professionals to gain peer insight and support related to best practices in victim services. Features include—

- **Guest host sessions** that give you access to experts in the field on topics such as stalking, drunk driving, terrorism, victimization in Indian Country, and domestic violence.
- **OVC news and announcements** that report current OVC-focused initiatives and relevant topics and events with a primary focus on best practices.
- **A user-friendly search engine** that helps you scan and retrieve posts by topic of interest, keywords, or date.
- **Hot topics** that include posts from unique users or forum topics that are relevant to current events in victim assistance.
- **The host of the month** that highlights a single user post that captures the essence of a forum topic or a popular issue.

**Make connections.
Share ideas. Change lives.**



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Office of Justice Programs

Office for Victims of Crime

Washington, DC 20531

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