Arizona

PUBLICITY PAMPHLET

Propositions to be submitted to the
qualified electors of the State of Arizona
at the

GENERAL ELECTION
NOVEMBER 6, 1990

Compiled and issued by

JIM SHUMWAY
Secretary of State

PROPOSITION 104

OFFICIAL TITLE

AN INITIATIVE MEASURE

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA RELATING TO VICTIMS' RIGHTS; RECOGNIZING VICTIMS' RIGHTS TO JUSTICE AND DUE PROCESS; PROVIDING THAT VICTIMS SHALL HAVE THE RIGHT TO BE TREATED WITH FAIRNESS, RESPECT, AND DIGNITY, AND TO BE FREE FROM INTIMIDATION, HARASSMENT, OR ABUSE; THE RIGHT TO BE INFORMED, UPON REQUEST, ABOUT ESCAPES OR RELEASES; THE RIGHT TO BE PRESENT AT AND, UPON REQUEST, TO BE INFORMED OF ALL PROCEEDINGS WHERE THE DEFENDANT HAS THE RIGHT TO BE PRESENT; THE RIGHT TO BE HEARD AT CERTAIN PROCEEDINGS; THE RIGHT TO REFUSE AN INTERVIEW, DEPOSITION, OR OTHER DISCOVERY REQUEST BY THE DEFENDANT OR OTHER PERSON ON HIS BEHALF; THE RIGHT TO CONFER WITH THE PROSECUTION AT CERTAIN STAGES AND TO BE INFORMED OF THE DISPOSITION; THE RIGHT TO READ PRE-SENTENCE REPORTS; THE RIGHT TO RECEIVE PROMPT RESTITUTION; THE RIGHT TO BE HEARD REGARDING RELEASE FROM CONFINEMENT; THE RIGHT TO A SPEEDY TRIAL OR DISPOSITION AND PROMPT AND FINAL CONCLUSION AFTER CONVICTION AND SENTENCE; THE RIGHT TO HAVE RULES OF PROCEDURE AND EVIDENCE PROTECT VICTIMS' RIGHTS AND BE SUBJECT TO AMENDMENT OR REPEAL BY THE LEGISLATURE; THE RIGHT TO BE INFORMED OF THE VICTIMS' CONSTITUTIONAL RIGHTS; PROVIDING THAT THE EXERCISE OF ANY RIGHT GRANTED TO VICTIMS SHALL NOT BE GROUNDS FOR DISMISSING ANY CRIMINAL PROCEEDING OR SETTING ASIDE ANY CONVICTION OR SENTENCE; PROVIDING A DEFINITION OF "VICTIM"; PROVIDING THE LEGISLATURE OR THE PEOPLE WITH AUTHORITY TO ENACT SUBSTANTIVE AND PROCEDURAL LAWS REGARDING VICTIMS' RIGHTS, INCLUDING THE EXTENSION OF THOSE RIGHTS TO JUVENILE PROCEEDINGS; PROTECTING OTHER VICTIMS' RIGHTS GRANTED OR RETAINED; AND AMENDING THE CONSTITUTION OF ARIZONA BY ADDING ARTICLE II, § 2.1.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the People of the State of Arizona:

The following amendment to the Constitution of Arizona, adding Article II, § 2.1, is proposed, to become valid when approved by a majority of the qualified electors voting thereon and on proclamation of the governor:

Section 1. The Constitution of Arizona is amended by adding Article II, § 2.1:

ARTICLE II, § 2.1

§ 2.1. Victims' Bill of Rights

SECTION 2.1. (A) TO PRESERVE AND PROTECT VICTIMS' RIGHTS TO JUSTICE AND DUE PROCESS, A VICTIM OF CRIME HAS A RIGHT:

1. TO BE TREATED WITH FAIRNESS, RESPECT, AND DIGNITY, AND TO BE FREE FROM INTIMIDATION, HARASSMENT, OR ABUSE, THROUGHOUT THE CRIMINAL JUSTICE PROCESS.

2. TO BE INFORMED, UPON REQUEST, WHEN THE ACCUSED OR CONVICTED PERSON IS RELEASED FROM CUSTODY OR HAS ESCAPED.

3. TO BE PRESENT AT AND, UPON REQUEST, TO BE INFORMED OF ALL CRIMINAL PROCEEDINGS WHERE THE DEFENDANT HAS THE RIGHT TO BE PRESENT.

4. TO BE HEARD AT ANY PROCEEDING INVOLVING A POST-ARREST RELEASE DECISION, A NEGOTIATED PLEA, AND SENTENCING.

5. TO REFUSE AN INTERVIEW, DEPOSITION, OR OTHER DISCOVERY REQUEST BY THE DEFENDANT, THE DEFENDANT'S ATTORNEY, OR OTHER PERSON ACTING ON BEHALF OF THE DEFENDANT.

6. TO CONFER WITH THE PROSECUTION, AFTER THE CRIME AGAINST THE VICTIM HAS BEEN CHARGED, BEFORE TRIAL OR BEFORE ANY DISPOSITION OF THE CASE AND TO BE INFORMED OF THE DISPOSITION.

7. TO READ PRE-SENTENCE REPORTS RELATING TO THE CRIME AGAINST THE VICTIM WHEN THEY ARE AVAILABLE TO THE DEFENDANT.

8. TO RECEIVE PROMPT RESTITUTION FROM THE PERSON OR PERSONS CONVICTED OF THE CRIMINAL CONDUCT THAT CAUSED THE VICTIM'S LOSS OR INJURY.

9. TO BE HEARD AT ANY PROCEEDING WHEN ANY POST-CONVICTION RELEASE FROM CONFINEMENT IS BEING CONSIDERED.

10. TO A SPEEDY TRIAL OR DISPOSITION AND PROMPT AND FINAL CONCLUSION OF THE CASE AFTER THE CONVICTION AND SENTENCE.

11. TO HAVE ALL RULES GOVERNING CRIMINAL PROCEDURE AND THE ADMISSIBILITY OF EVIDENCE IN ALL CRIMINAL PROCEEDINGS PROTECT VICTIMS' RIGHTS AND TO HAVE THESE RULES BE SUBJECT TO AMENDMENT OR REPEAL BY THE LEGISLATURE TO ENSURE THE PROTECTION OF THESE RIGHTS.

12. TO BE INFORMED OF VICTIMS' CONSTITUTIONAL RIGHTS.

(B) A VICTIM'S EXERCISE OF ANY RIGHT GRANTED BY THIS SECTION SHALL NOT BE GROUNDS FOR DISMISSING ANY CRIMINAL PROCEEDING OR SETTING ASIDE ANY CONVICTION OR SENTENCE.

(C) "VICTIM" MEANS A PERSON AGAINST WHOM THE CRIMINAL OFFENSE HAS BEEN COMMITTED OR, IF THE PERSON IS KILLED OR INCAPACITATED, THE PERSON'S SPOUSE, PARENT, CHILD OR OTHER LAWFUL REPRESENTATIVE, EXCEPT IF THE PERSON IS IN CUSTODY FOR AN OFFENSE OR IS THE ACCUSED.

(D) THE LEGISLATURE, OR THE PEOPLE BY INITIATIVE OR REFERENDUM, HAVE THE AUTHORITY TO ENACT SUBSTANTIVE AND PROCEDURAL LAWS TO DEFINE, IMPLEMENT, PRESERVE AND PROTECT THE RIGHTS GUARANTEED TO VICTIMS BY THIS SECTION, INCLUDING THE AUTHORITY TO EXTEND ANY OF THESE RIGHTS TO JUVENILE PROCEEDINGS.

(E) THE ENUMERATION IN THE CONSTITUTION OF CERTAIN RIGHTS FOR VICTIMS SHALL NOT BE CONSTRUED TO DENY OR DISPARAGE OTHERS GRANTED BY THE LEGISLATURE OR RETAINED BY VICTIMS.

ANALYSIS BY LEGISLATIVE COUNCIL

(In compliance with A.R.S. section 19-124)

The Constitution of Arizona sets forth the declaration of rights of the people of Arizona. The Constitution specifically guarantees the rights of accused persons in criminal prosecutions, but it does not provide any specific rights for the victims of crime. This Proposition would amend the Constitution by guaranteeing that victims of crime have the right:

1. To fair treatment.
2. To be notified of the accused or convicted person's release or escape from prison.
3. To be present at any proceeding if the defendant has the right to be present.
4. To be present at post-conviction, plea or sentencing proceedings.

5. To refuse an interview or other discovery request by the defendant, his attorney or any other person working on behalf of the defendant.
6. To consult with the prosecutor and be informed of the case's disposition.
7. To read presentence reports if they are available to the defendant.
8. To receive restitution.
9. To be heard at any proceeding at which post-conviction relief is being considered.
10. To a speedy trial.
11. To have the rules of evidence and criminal procedure protect victims' rights.
12. To be informed of their constitutional rights.

LEGISLATIVE COUNCIL ARGUMENTS FAVORING PROPOSITION 104

For too long victims of crime have been second-class citizens. The rights of defendants have been eagerly fought for and protected while the victim has been overlooked, at best, and, at worst, trampled upon by the judicial system. This Proposition would attempt to equalize the rights of defendants and victims so that the scales of justice would no longer weigh heavily in favor of the defendant.

Although the State Supreme Court adopted Rule 39 relating to victims' rights last year, it did not go far enough. Unlike Rule 39, this Proposition would guarantee the right of a victim to be in the courtroom along with the defendant. Under Rule 39, a judge is permitted to decide whether to allow a victim into the courtroom to hear the testimony of others.

Another problem with Rule 39 is that court rules are too easy to change. In the future the State Supreme Court could easily change Rule 39 to restrict or reduce the rights it has given to victims.

This Proposition would require the defendant to pay the victim for any harm caused to the victim. This requirement acknowledges that the victim has been harmed and should be compensated for that harm.

This Proposition would guarantee victims' rights because it would put victims' rights under the protection of the State Constitution, where they are not subject to change except by vote of the people. Victims' rights would not be subject to judicial whim.

LEGISLATIVE COUNCIL ARGUMENTS OPPOSING PROPOSITION 104

A constitutional amendment is not necessary to establish victims' rights. There are currently 47 state statutes and 17 court rules which protect victims of crime.

These statutes and rules include victims' rights to restitution and compensation, notice of hearings and the right to participate in most hearings. In fact 10 of the 12 rights in Proposition 104 are currently guaranteed to victims under current law. In addition, the State Supreme Court adopted judicial rules last year which offer even further rights and protection to victims.

The two provisions not currently covered by state law alter the constitutional guarantee that all citizens are presumed innocent until proven guilty. Presently, it is the jury which

determines who is guilty. Under this proposition the government, not the jury, will decide guilt or innocence before all the facts are presented.

Proposition 104 ignores the high hidden costs that taxpayers will bear as a result of this proposal. It will increase the number of hearings and trials with all attendant costs.

The Proposition interjects politics into the judicial system. Proposition 104 would take from the courts the authority to set rules of evidence and procedure and give this power to the legislature. Such rule-making would be subject to legislative whim rather than years of well-tested and well-reasoned court decisions.

ARGUMENT "FOR" PROPOSITION 104

My husband and I are the parents of Christy Ann Fornoff who was abducted, raped and murdered 6 years ago in Tempe. We have learned from this very devastating experience that a criminal has basic constitutional rights that we, as victims, do not have. We had no idea that we could have been at the arraignment or any other court appearance that the defendant was at. We were not notified about every court proceeding. We could not sit in the courtroom during the trial until the end arguments were given. (THE RIGHT TO BE PRESENT IN THE COURTROOM DURING THE WHOLE CASE.) We received calls from the suspected murderer while he was in jail before the trial began. (THE RIGHT TO BE FREE FROM HARASSMENT.) We were not allowed to read the pre-sentence report, nor were we given the opportunity to tell the court about the pain caused by the crime. (THE RIGHT TO TELL THE COURT OR THE PAROLE BOARD ABOUT THE DAMAGE AND PAIN CAUSED BY THE CRIME.) We fear that, as the rules stand now, there will be no final conclusion to this case. In Arizona, the death penalty has not been carried out for twenty-five years. The appeals will go on and on as they have been known to do in this state. (THE RIGHT TO A SPEEDY TRIAL AND TO A REASONABLY SWIFT CONCLUSION OF THE CASE.) We are seldom informed about the status of the appeal. (THE RIGHT TO KNOW THE STATUS OF THE CASE.)

The reason we feel so strongly about the need to pass the Victims' Bill of Rights Proposition is so that future victims will have the Constitutional Rights that we didn't have. We urge you to vote YES for Victims' Rights.

Carol and Roger Fornoff
Tempe, AZ

ARGUMENT "FOR" PROPOSITION 104

We The People Courtwatch supports the Victims' Bill of Rights based on our first-hand observations of the Arizona judicial system during the past six years. Victims do not choose to become victims, and once in our state's judicial system, they are needlessly traumatized once again.

A constitutional amendment is needed to protect and guarantee that victims will have rights. Judicial rules of procedure are largely ignored in Arizona courtrooms. A defendant's rights are guaranteed by the United States Constitution and Bill of Rights and no power on earth can diminish them in anyway. Defendants already possess each of the rights this initiative would provide victims.

At this time, 40 other states, as well as our Federal Judicial System, have similar or same rights provided for victims. Most states, including the federal system, have never allowed

pre-trial interviews, yet function very well within the guidelines of our federal constitution.

In Arizona, judicial rules of procedure are written by lawyers for lawyers with no consideration for victims. Giving our state legislature power to enact rules regarding victims' rights will restore the system of checks and balances which has not existed in Arizona in 30 years. Citizens will be given a voice through their legislators while the Arizona Supreme Court would retain 99% of their exclusive rule making power.

Currently, Arizona has the third highest crime rate in the nation, with approximately 250,000 victims each year. These rights have not been drafted for a few individuals, but rather for the hundreds of thousands of potential victims of crime.

Kelly McMahon, President
We The People Courtwatch
Tucson, AZ

ARGUMENT "FOR" PROPOSITION 104

For the past seventeen years I have been dealing with the criminal justice system: appeals, hearings and new trials. I speak as a victim of crime. My daughter was murdered in 1973.

With the approval of the voters of Arizona, other families will not have to endure the pain of constant confrontation with a criminal justice system that totally disregards the rights or interests of victims that my family has had to face. The man who murdered our daughter was convicted and sentenced to life in prison with no chance of parole, in 1973 and in 1985. The years between have been a series of hearings and appeals. We wait now for another appeal to be heard.

Most people, and attorneys, do not understand that everything that happens in a trial or hearing affects the victim and the victim's family. These people say that what occurs in the courts is not a victims' issue - the case belongs to the courts and the impact of the procedure on the victims is of no importance.

Believe me, when someone you love is murdered and you are told you cannot be in the courtroom during the trial, you feel the impact. When the trial date is moved again and again, month after month, you feel the impact. When the murderer is given leave from prison or released, and you are not informed, you feel the impact. When the truth is kept needlessly from the jury, you feel the impact much more directly than do the attorneys. These are victims' issues - not prosecutors issues and not defense attorney issues.

For these reasons, we, as victims, are fighting for the Victims' Bill of Rights. We are asking for constitutional rights for victims in order to balance those with the constitutional rights criminal defendants now have.

Nancy H. Koger
Phoenix, AZ

ARGUMENT "FOR" PROPOSITION 104

In 1981 when my husband was stabbed to death in our home and I was nearly killed too, I was very naive about our court system and its treatment of victims of crime. After three agonizing trials for the man I had witnessed kill my husband, my eyes were wide open to the changes that needed to be made.

The Victims' Bill of Rights will give victims of crime constitutional rights which cannot be taken away by judges or attorneys.

Consideration, at least, will have to be given to victims. No longer will they be treated as pieces of evidence. No longer will they be denied the right to be in the courtroom. No longer will they be forced to submit to endless pre-trial questioning. They will be given notification when the defendant's status has changed or he has been released. They will be allowed to read pre-trial sentencing reports. They will be allowed to make a statement at the sentencing hearing and parole hearing. Victims will have constitutional rights.

Defendants have constitutional rights, why shouldn't victims?

Please vote for the Victims' Bill of Rights in November.

Barbara J. DeMint
Phoenix, AZ

ARGUMENT "FOR" PROPOSITION 104

Our Criminal Justice System is based upon the fundamental principles of liberty and justice. This system's authority flows from the United States Constitution, the supreme law of the land. We look to that Constitution to preserve our freedoms and ensure that justice prevails for all citizens equally.

In theory, the constitutional guarantees that protect all citizens from the arbitrary application of laws should result in justice, not only for those accused of crime, but for those who are the victims of crime. In practice, this is not always the case.

How can such a situation exist? I believe it is because the rights that are so carefully spelled out in the federal and state constitutions pertain only to those persons who will appear in court as defendants. Comparable language does not exist in Arizona's constitution for the victims of crime. As a result, the attention of the courts, in interpreting the law, has focused primarily on the rights of defendants, and the interests of victims become lost in a complex body of rules and technicalities.

The Victims' Bill of Rights can change this. It will give the courts an opportunity to consider the defendant and the victim, equally. By embedding victims' rights in our state constitution, we will be taking an important first step toward a more balanced system of justice.

I urge you to vote for the Victims' Bill of Rights.

Richard M. Romley
Maricopa County Attorney
Phoenix, AZ

ARGUMENT "FOR" PROPOSITION 104

For the past several years I have been involved in the victims' rights movement. I have seen the hardship, the pain, the frustration that victims endure following a crime - which is all too often made worse by their involvement in the criminal justice system. Across Arizona, victims are routinely treated with indifference and in many cases further abused by the very system they turned to for protection. Our constitution rightfully gives those accused of committing a crime specific rights. Yet innocent victims have none.

One important feature of the Victims' Bill of Rights is the right to refuse to be interviewed by the attorney for the accused before trial. In more than 40 states and the federal system, victims have this right. Now, because of Arizona court rule, victims are forced to submit to such an interview - to go over facts already contained in a police report which has been given to the accused. Can you imagine what it must be like for young children, who have been sexually molested, to be questioned in detail by the defendant's attorney about each act committed by the defendant?

Constitutional rights for victims are important. Somehow, sometime over the past two hundred years, our criminal justice system lost sight of the fact that innocent victims of crime also deserve protection, not only the accused. By amending our state constitution, Arizonans will join many other states that have recognized that justice must be balanced - both for those accused of crime and for those victimized by crime.

Carol L. McFadden
Phoenix, AZ

ARGUMENT "FOR" PROPOSITION 104

Our criminal justice system has long been a system that excludes innocent victims from the process. The victim is treated solely as a piece of evidence and not as a person whose life has been drastically changed as a result of the crime.

Currently, victims must submit to a face to face interview, prior to trial, conducted by the defense while the defendant is never required to answer questions from the prosecution. Currently, victims can be excluded from hearings and the trial, while defendants have a constitutional right to be present. Currently, victims have no constitutional right to be informed when the person accused of the crime is released. Currently, victims have no constitutional right to confer with the prosecutor handling their case, while the defendant is represented by his own attorney.

We need to change all this. Victims need to become active participants in the process if they choose. They need to have the same access to the system as defendants do. We who support the passage of Proposition 104 do not wish to delete any rights currently enjoyed by the defendant, we only wish to add rights for victims. We want to restore balance to our criminal justice system and give to victims what they deserve, the right to be treated with respect and dignity. The passage of Proposition 104 will insure all these rights.

Sharon Sikora
MADD Board Member
Glendale, AZ

ARGUMENT "FOR" PROPOSITION 104

The Victims' Bill of Rights Task Force is a network of people throughout Arizona joined together by a common belief that our Constitution ought to protect and give rights to crime victims, not just those accused and convicted of crimes.

We have worked hard so that you will have the opportunity to establish a Bill of Rights for Victims. In our country, every person ought to have basic constitutional guarantees to be secure in life, liberty and property. But today, when a crime is committed, the criminal defendant has all the rights, and the victim of crime has none. The pain and suffering experienced by victims of crime is only made worse by a system which treats them as nothing more than another piece of evidence for the trial.

Passage of Proposition 104 will give us a fair criminal justice system -- one that balances the rights of the criminal defendant with new rights for victims. Proposition 104 will give us a system of justice that fully protects the rights of the innocent and law-abiding and that is fair to all.

Contrary to arguments opposing the Victims' Bill of Rights, nothing, not one word or syllable, of the Amendment alters the presumption of innocence or allows the "government . . . to decide guilt or innocence." Those arguments are false. The right to a jury trial and the presumption of innocence are both protected by U.S. and Arizona Constitutions and nothing in the Victims' Bill of Rights alters them. Proposition 104 will only add to the rights that protect every citizen in our state.

Citizens across Arizona signed the Victims' Bill of Rights petition to voice their agreement that our system of justice is severely out of balance. You can restore that balance by voting "yes" on Proposition 104.

Donna Pickering, Chairperson
Victims' Bill of Rights
Task Force
Phoenix, AZ

Peggy Bray, Treasurer
Victims' Bill of Rights
Task Force
Phoenix, AZ

ARGUMENT "FOR" PROPOSITION 104

This year in Arizona, hundreds of thousands of our people will become victims of murder, rape, robbery, aggravated assault, drunk driving crashes and other serious crimes. These innocent victims will then suffer not only the pain of the crime, but also the betrayal of a criminal justice system that fails to give them any constitutional rights.

They will have no constitutional right to be told when the person who attacked them is released from custody or to tell the judge what they think about the release before it happens.

They will have no constitutional right to be in the courtroom throughout the entire trial of the case, or to know about any plea bargain before it happens and tell the judge how they feel about it.

They will have no constitutional right to a speedy trial, or to any reasonable finality, or to restitution, or to be heard at sentencing, or even to be treated with fairness and respect. They will have no right to choose whether to be interrogated before trial, a right that other victims all across America enjoy today.

We must stop this injustice through the movement for the Victims' Bill of Rights. Not to take constitutional rights away from the accused; the Amendment doesn't take any away. Not to give more power to government; the Victims' Bill of Rights empowers the people. Not to remove the presumption of innocence, or the right to a jury trial; the Amendment could not do those things. What it will do is guarantee constitutional rights for victims that no one will be able to take away.

By your support for Proposition 104 you will be able to say that you too saw injustice and had the courage and vision to end it.

Steve Twist
Phoenix, AZ

ARGUMENT "AGAINST" PROPOSITION 104

Although I am a staunch supporter of victims' rights and have been active in serving victims of crimes, I must oppose the so-called Victims' Rights Amendment to the Arizona Constitution. I fear it would do more damage than good in our state.

Justice in Arizona and in America comes at a high cost. The proposed amendment to our state's Constitution removes two protections currently provided citizens in Arizona: the right to question your accuser prior to trial, and the right to exclude your accuser from the courtroom until after he or she has testified, to make sure the accusation is untainted by other witnesses' testimony.

We cannot permit the presumption of innocence to be eroded in the name of necessity when other less harmful means are available. "Necessity," it has been said, is the "plea for every infringement of human liberty; it is the argument of tyrants and the creed of slaves." -- William Penn.

Moving toward a presumption of guilt in Arizona such as prevails in totalitarian regimes will only serve to deprive innocent men and women of their freedoms, and perhaps their lives.

The Attorney General and other prosecutors should truly work toward serving all Arizonans and, in particular, victims of crime. Lip service and rhetoric must give way to responsiveness and prosecutorial responsibility. Pre-trial harassment by defense attorneys has been quashed by the Arizona Supreme Court. Arizonans' right to a fair trial when accused of a crime must be preserved, however. Any reduction of protections held by the citizens, increases the power of the state and the damage it can do by a mistake.

David Eisenstein, Chairman
Citizens for Eisenstein
Tucson, AZ

ARGUMENT "AGAINST" PROPOSITION 104

VICTIMS RIGHTS ARE ALREADY PROTECTED UNDER THE LAW - There are currently 47 laws and 17 Rule Provisions that protect victims' rights. For example, the right of a victim to receive restitution is guaranteed in eight separate laws; the right to receive notice of a prisoner's release/escape is guaranteed in four separate laws. The list goes on.

WHO DRAFTED THIS INITIATIVE? Did the writers know these rights already existed? Proposition 104 was initiated and drafted by government attorneys. These government attorneys took legitimate concerns that are already covered by law; and are trying to camouflage their own private agenda to increase their power.

In our country citizens are presumed innocent until proven guilty. It is the jury who determines the facts and determines guilt or innocence. Under this government sponsored proposition, citizens would be presumed guilty. Under Proposition 104, it is the government, not the jury, who determines who is the victim.

Under our constitution, the Supreme Court supervises all lower courts by reviewing their rules. With Proposition 104, the power would be given to the legislature. The legislature is a political body. It is subject to pressure from lobbyists and special interest groups.

Our constitutional system is a system of checks and balances. Proposition 104 changes that system by interfering with the Supreme Court's supervision of the lower courts. This is the most significant affect of Proposition 104. The government attorneys who wrote this proposition tried to hide this from the public by proposing "rights" that are already law.

The 47 laws and numerous Rule Provisions already protect victims. If the government wants to increase its power it should be honest and present those specific issues in a separate proposition. Don't be mislead. VOTE NO ON PROPOSITION 104.

MIKE TERRIBILE, Chair
Citizens for Preservation of Rights
Phoenix, AZ

ARGUMENT "AGAINST" PROPOSITION 104

Proposition 104 entitled "Victims' Rights" is an attempt by certain special interest groups to promote their own agenda. Hidden within Proposition 104 is an amendment to the Arizona Constitution that transfers the rule making authority of the Arizona Supreme Court to the whim of the Arizona legislature.

The rights of victims contained in Proposition 104 are currently protected by 47 Arizona statutes and 12 court rules. "The government that governs least governs best". Henry David Thoreau. Do we need more laws for lawyers to play with? No, we need to enforce those we have.

Experts agree that Proposition 104 will add substantial cost to an already overburdened and expensive court system. Who will pay? You and I, the Arizona taxpayer.

Proposition 104 is an unnecessary and costly amendment to constitutional provisions that have served us well for 80 years. Transfer of the rule-making power of the Supreme Court to the legislature will only serve to increase the spiraling cost of state government to the benefit of a few. Vote No on Proposition 104.

Larry L. Debus
Phoenix, AZ

ARGUMENT "AGAINST" PROPOSITION 104

Proposition 104 would deprive the citizens of Arizona of the right to a fair and impartial trial by jury.

Presently all witnesses in both civil and criminal cases are subject to pretrial interviews by both sides.

Proposition 104 would change the rules in criminal cases only. These changes would mean that certain government witnesses in a criminal case would not have to give a pretrial interview.

The result of Proposition 104 would be that in civil cases involving only money witnesses would be interviewed by both sides before trial but in a criminal case where years in prison or even death might be the penalty, the most important witnesses would not be required to give a pretrial interview.

Why would the government lawyers who drafted this proposition, desire such a result?

With so much at stake in a criminal trial, all witnesses should be required to give pretrial witnesses so that neither side is caught by surprise in trial.

Defend our right as citizens of Arizona to a fair and impartial trial by jury. Vote NO on Proposition 104.

Robert Hirsh, President
Arizona Attorneys for Criminal Justice
Tucson, AZ

PROPOSITION 104

PROPOSED AMENDMENT TO THE CONSTITUTION BY THE INITIATIVE

OFFICIAL TITLE

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA RELATING TO VICTIMS' RIGHTS; RECOGNIZING VICTIMS' RIGHTS TO JUSTICE AND DUE PROCESS; PROVIDING THAT VICTIMS SHALL HAVE THE RIGHT TO BE TREATED WITH FAIRNESS, RESPECT, AND DIGNITY, AND TO BE FREE FROM INTIMIDATION, HARASSMENT, OR ABUSE; THE RIGHT TO BE INFORMED, UPON REQUEST, ABOUT ESCAPES OR RELEASES; THE RIGHT TO BE PRESENT AT AND, UPON REQUEST, TO BE INFORMED OF ALL PROCEEDINGS WHERE THE DEFENDANT HAS THE RIGHT TO BE PRESENT; THE RIGHT TO BE HEARD AT CERTAIN PROCEEDINGS; THE RIGHT TO REFUSE AN INTERVIEW, DEPOSITION, OR OTHER DISCOVERY REQUEST BY THE DEFENDANT OR OTHER PERSON ON HIS BEHALF; THE RIGHT TO CONFER WITH THE PROSECUTION AT CERTAIN STAGES AND TO BE INFORMED OF THE DISPOSITION; THE RIGHT TO READ PRE-SENTENCE REPORTS; THE RIGHT TO RECEIVE PROMPT RESTITUTION; THE RIGHT TO BE HEARD REGARDING RELEASE FROM CONFINEMENT; THE RIGHT TO A SPEEDY TRIAL OR DISPOSITION AND PROMPT AND FINAL CONCLUSION AFTER CONVICTION AND SENTENCE; THE RIGHT TO HAVE RULES OF PROCEDURE AND EVIDENCE PROTECT VICTIMS' RIGHTS AND BE SUBJECT TO AMENDMENT OR REPEAL BY THE LEGISLATURE; THE RIGHT TO BE INFORMED OF THE VICTIMS' CONSTITUTIONAL RIGHTS; PROVIDING THAT THE EXERCISE OF ANY RIGHT GRANTED TO VICTIMS SHALL NOT BE GROUNDS FOR DISMISSING ANY CRIMINAL PROCEEDING OR SETTING ASIDE ANY CONVICTION OR SENTENCE; PROVIDING A DEFINITION OF "VICTIM"; PROVIDING THE LEGISLATURE OR THE PEOPLE WITH AUTHORITY TO ENACT SUBSTANTIVE AND PROCEDURAL LAWS REGARDING VICTIMS' RIGHTS, INCLUDING THE EXTENSION OF THOSE RIGHTS TO JUVENILE PROCEEDINGS; PROTECTING OTHER VICTIMS' RIGHTS GRANTED OR RETAINED; AND AMENDING THE CONSTITUTION OF ARIZONA BY ADDING ARTICLE II, § 2.1.

DESCRIPTIVE TITLE

AMENDING ARIZONA CONSTITUTION BY ADDING A CRIME VICTIMS' BILL OF RIGHTS REQUIRING THAT VICTIMS RECEIVE PROMPT RESTITUTION, BE INFORMED OF CRUCIAL EVENTS, BE PRESENT AND HEARD AT CRITICAL STAGES AND BE ALLOWED TO CHOOSE WHETHER TO SUBMIT TO PRETRIAL QUESTIONING BY THE DEFENSE.

PROPOSITION 104

A "yes" vote shall have the effect of providing constitutional rights to victims of criminal offenses without amending any of the constitutional provisions guaranteeing rights of criminal defendants. — YES

A "no" vote shall have the effect of not amending the Arizona Constitution to include a Victims' Bill of Rights. — NO