



OFFICE OF VICTIMS' RIGHTS ANNUAL REPORT TO THE ALASKA LEGISLATURE

July 2, 2012

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INTRODUCTION

The Alaska Office of Victims' Rights (OVR) serves three functions: 1) to preserve and protect crime victim rights under the Alaska Constitution and statutes; 2) to investigate, as an ombudsman, complaints by crime victims concerning criminal justice agencies; and 3) to participate in community and government advocacy groups to improve crime victim experiences in the criminal justice system.

Created by the Alaska Legislature in 2001, the OVR is an independent agency within the legislative branch of state government. The OVR's placement in the legislative branch avoids conflicts in state government and ensures OVR independence to investigate criminal justice agencies and make appropriate recommendations. Alaska Statute 24.65, *et seq.* (effective July 1, 2002) provides authority for the OVR's investigative powers and responsibilities.

The OVR remains a national leader in victim advocacy. It is one of the first law offices in the nation to have comprehensive investigative tools and powers, with legislative oversight, to advocate for crime victims' legal rights. The OVR provides victims with a variety of services including information, education, investigation, and courtroom advocacy. In providing these services, the OVR maintains a philosophy of cooperation and collaboration when working with criminal justice agencies, the courts, and crime victims.

Executive Director D. Victor Kester completed his five-year term as Victims' Advocate for the Alaska Office of Victims' Rights on July 2, 2012. Mr. Kester served as the youngest appointed Victims' Advocate and the first Alaskan to complete a five-year term.

The successor to Mr. Kester is Taylor Winston. Ms. Winston is a former prosecutor with the State of Alaska with extensive experience litigating cases involving domestic violence and sexual assault. It is anticipated that the Alaska Office of Victims' Rights will remain a national leader in crime victim's advocacy under her leadership.

MISSION STATEMENT

The Alaska Office of Victims' Rights provides free legal services to victims of crime to protect their rights under the Alaska Constitution and Statutes. The OVR advances and protects these rights in court when necessary and authorized by law.

OVERVIEW OF THE ALASKA OFFICE OF VICTIMS' RIGHTS

1. *Advocacy on Behalf of Crime Victims - Jurisdiction*

The OVR assists crime victims by advocating for and enforcing Alaska's constitutional and statutory protections. Empowered by the Alaska Legislature, the OVR functions as the legal advocate in state court for crime victims of all felony offenses, and all class A misdemeanors involving domestic violence or crimes against the person under AS 11.41. A felony offense is punishable by a sentence of one or more years in jail and a fine of up to \$500,000. Class A misdemeanors are crimes punishable by up to one year in jail and a fine of up to \$10,000. Crime victims may file a written request for OVR assistance to ensure that their legal rights as crime victims are not denied.

2. *Investigating Complaints by Victims*

Crime victims may file a written complaint with the OVR stating that they have been denied the rights established by Article 1, Section 24 of the Alaska Constitution or by Alaska Statutes 24.65.010-24.65.250. The OVR is empowered to investigate complaints regarding victim contacts with criminal justice agencies and take appropriate action on behalf of crime victims. In conducting an investigation the OVR may:

- (a) make inquiries and obtain information considered necessary from justice agencies;
- (b) hold private hearings; and
- (c) notwithstanding other provisions of law, have access at all times to records of justice agencies, including court records of criminal prosecutions and juvenile adjudications, necessary to ensure that the rights of crime victims are not being denied; with regard to court and prosecution records, the Victims' Advocate is entitled to obtain access to every record that any criminal defendant is entitled to access or receive.

AS 24.65.120(b). Some examples of information and records available to the OVR are police reports, witness statements, lab reports, photos, taped statements, grand jury proceedings and exhibits, officers' notes, scene diagrams, dispatch records, autopsy reports, pre-sentence reports, physical evidence and more. All information and records obtained during any investigation (which may include records subpoenaed by the OVR) are confidential as required by AS 24.65.110(d) and AS 24.65.120(c).

3. *Obtaining Information from Criminal Justice Agencies*

A subpoena is a legal order requiring a person to appear at a specified time and place in order to provide documents and evidence or to answer questions under oath. The Victims' Advocate is authorized by law to issue subpoenas to any person for any records or any object so long as the Victims' Advocate reasonably believes such items may provide information relating to a matter under investigation by the OVR. The Victims' Advocate may also require the

appearance of any person to give sworn testimony if he reasonably believes that person may have such information. AS 24.65.130.

If a person refuses to comply with a subpoena, the Victims' Advocate may file a motion with the superior court requesting a judge to issue a court order directing obedience to the subpoena. If the person persists in not complying, the person may be held in contempt of court and could be fined or jailed until the subpoena is honored. AS 24.65.130(b); *see also* AS 24.65.120.

4. *Information and Records Obtained by the OVR are Confidential*

The OVR is obligated to maintain strict standards of confidentiality with respect to its records, investigations, and communications with clients. The OVR is required by law to keep confidential all matters and information related to the performance of its duties, as well as maintain the confidentiality of the identities of all complainants or witnesses coming before the OVR, except insofar as disclosure of such information may be necessary to enable the OVR to carry out its mission and to support its recommendations. The OVR may not disclose a confidential record obtained from a court or justice agency. AS 24.65.110(d); AS 24.65.120(c).

5. *Publication of OVR Findings Following an Investigation*

Within a reasonable time after a formal investigation is completed, and after the OVR reports its opinion and recommendations to the pertinent justice agency, the Victims' Advocate may present the opinion and recommendations to the governor, the legislature, a grand jury, the public, or any combination thereof. The OVR must include with the opinion any reply made by the justice agency. Written consent from the complainant to release the OVR's report must be obtained prior to release of any such report. AS 24.65.160.

6. *The OVR May Not Interfere with the Criminal Justice System*

The OVR is required by law to ensure that its exercise of discretion does not interfere with any ongoing criminal investigation by a police agency or any criminal proceeding by the prosecutor's office. Additionally, the Victims' Advocate must ensure OVR employees do not make public statements that lawyers are prohibited from making under the Alaska Rules of Professional Conduct. Finally, the OVR may not prevent or discourage a crime victim from providing evidence, testifying or cooperating in a criminal investigation or criminal proceeding. AS 24.65.100(b).

7. *The OVR has Broad Civil and Criminal Immunity*

Under the OVR Act, a proceeding of or decision made by the Victims' Advocate or OVR staff may be reviewed in superior court only to determine if it is contrary to the statutes that created the OVR. The Act also provides that the conclusions, thought processes, discussions, records, reports and recommendations, and information collected by the Victims' Advocate or his staff are not admissible in a civil or criminal proceeding and are not subject to questioning or disclosure by subpoena or discovery. Additionally, a civil lawsuit may not be brought against

the Victims' Advocate or a member of OVR staff for anything said or done in the performance of the OVR's duties or responsibilities. AS 24.65.180; AS 24.65.190; AS 24.65.200.

8. *It is a Crime to Fail to Comply with the OVR's Lawful Demands*

Alaska law provides:

A person who knowingly hinders the lawful actions of the victims' advocate or the staff of the victims' advocate, or who knowingly refuses to comply with their lawful demands, is guilty of a misdemeanor and upon conviction may be punished by a fine of not more than \$1,000.00.

AS 24.65.210.

THE OVR TEAM

The OVR is a team of legal professionals comprised of the following individuals:

D. Victor Kester, Executive Director

Mr. Kester was appointed Executive Director of the Alaska Office of Victims' Rights in May 2007. Mr. Kester is a lifelong Alaskan. He graduated with a Bachelor of Arts from Occidental College in Los Angeles, California and earned a Doctor of Jurisprudence from Willamette University College of Law in Salem, Oregon. He joined the Alaska Bar in 1998. Mr. Kester is also a member of the bar for the United States District Court of Alaska, the Ninth Circuit Court of Appeals, and the United States Supreme Court. In May 2008, Mr. Kester graduated from the University of Alaska Anchorage with a Master of Business Administration.

Taylor E. Winston, Executive Director (as of May 21, 2012)

Ms. Winston grew up in Texas. She graduated with a Bachelor of Arts in Political Science, a Bachelor of Fine Arts in Journalism, and a Bachelor of Business Administration from Southern Methodist University in 1985. She earned her Master of International Affairs from Columbia University in 1988. After graduate school, Ms. Winston worked as an international trade program analyst at the U.S. General Accounting Office in Washington D.C. for several years before attending Georgetown Law Center. She earned her Juris Doctorate from Georgetown in 1997. That same year, she moved to Alaska to clerk for Superior Court Judge Larry Card in Anchorage. Following her clerkship, she was an associate at the law firm of Atkinson, Conway and Gagnon. In 1999, Ms. Winston became an assistant district attorney for the State of Alaska. Ms. Winston primarily prosecuted cases involving domestic violence assaults, sexual assaults, sexual abuse of minors and homicides. During her 13 years as an assistant district attorney, she served two years in the Bethel DA's office and 11 years in the Anchorage DA's Office, where she supervised the Special Assaults Unit for six years. Ms. Winston has been a member of the Alaska Bar since 1997 and is also a member of the U.S. District Court of Alaska and the U.S. Supreme Court.

Katherine J. Hansen, Senior Victims' Rights Attorney

Ms. Hansen has been a staff attorney at the Alaska Office of Victims' Rights since January 2004. Ms. Hansen first came to Alaska with her family at age five. Raised in the Fairbanks area, she graduated from the University of Alaska Fairbanks with a Bachelor of Science degree in 1993. She graduated *cum laude* from Suffolk University Law School in Boston in 1997. She returned to Alaska to clerk for Superior Court Judge Larry Zervos in Sitka. Ms. Hansen became an assistant district attorney in the Fairbanks office, serving Fairbanks and the surrounding area, including Tok, Delta, Nenana, Fort Yukon and Galena. She then transferred to the Bethel office, serving the Bethel community and its 56 outlying villages. From Bethel, in 2000, she went on to the civil division of the Department of Law. There she represented the Department of Health and Human Services in its efforts to protect abused and neglected children. Ms. Hansen is the senior staff attorney at the OVR.

Shaun M. Sehl, Associate Victims' Rights Attorney

Ms. Sehl grew up in Minnesota. She attended Loyola College in Baltimore, Maryland, graduating in 1988, and University of Oregon School of Law, graduating in 1993. Ms. Sehl came to Alaska in September 1993 to serve as the first on-site Law Clerk for Judge Curda in Bethel, Alaska. In the fall of 1994, she became the Law Clerk and Visiting Magistrate for the judges in the Second Judicial District, including Nome, Kotzebue and Barrow, and regularly traveled to all three locales. In 1996, Ms. Sehl became the first on-site Assistant Attorney General in Bethel, representing the Department of Health and Social Services in Child in Need of Aid and Juvenile Delinquent Cases. In 1998, Ms. Sehl moved to the Bethel District Attorney's Office, serving as a prosecutor until December 1999. Ms. Sehl returned to Minnesota from 2000 to 2007 to work in the private sector with other family members in a start-up import business. Ms. Sehl returned to Anchorage in February 2007 to take her current position with the Office of Victims' Rights.

Irene S. Tresser, Associate Victims' Rights Attorney

Ms. Tresser grew up in Berkeley, California. She graduated from UC Santa Barbara in 1997 with a Bachelor of Arts Degree in English, French and Philosophy. She received her Juris Doctorate from UC Davis in 1990. She has clerked for several judges, including Justice Robert Rose of the Nevada Supreme Court and Judge John W. Sedwick of the United States District Court in Alaska, and served as a staff attorney for the Ninth Circuit Court of Appeals in San Francisco. Ms. Tresser has been an Alaska resident since the early 1990s. She possesses significant experience in legal research and writing and in appellate matters at all levels of the Alaska court system. She is a member of the Bar in Alaska, California and Nevada.

Joseph Young, Investigator

Mr. Young joined the Alaska Office of Victims' Rights in January 2012. Mr. Young retired from the Anchorage Police Department with 22 years of service. He served as a patrol officer, a major theft detective, burglary detective, crime prevention specialist and spokesperson. He functioned as a Field Training Officer and taught at the police academy. In the private sector, he owned and operated a workplace safety and security company. Prior to joining the OVR, Mr. Young served for 17 years as the business manager of the Alaska Peace Officers Association – an organization of local, state and federal law enforcement personnel (including correction officers and prosecutors). Mr. Young holds the degree of Master of Business Organizational Management.

Canice Bryson, Office Manager/Paralegal

Canice Bryson joined the staff of the Office of Victims' Rights in 2005. Upon arriving in Alaska in 1995, Ms. Bryson returned to college and received associate degrees in paralegal studies and accounting. In 2000, Ms. Bryson received her Professional Legal Secretary certificate from the National Association of Legal Professionals, and she regularly attends continuing legal education classes. Ms. Bryson has significant experience working in the legal profession. Since 1998, she has worked for several sole-practitioner attorneys in the areas of family law, probate, contracts, and personal injury.

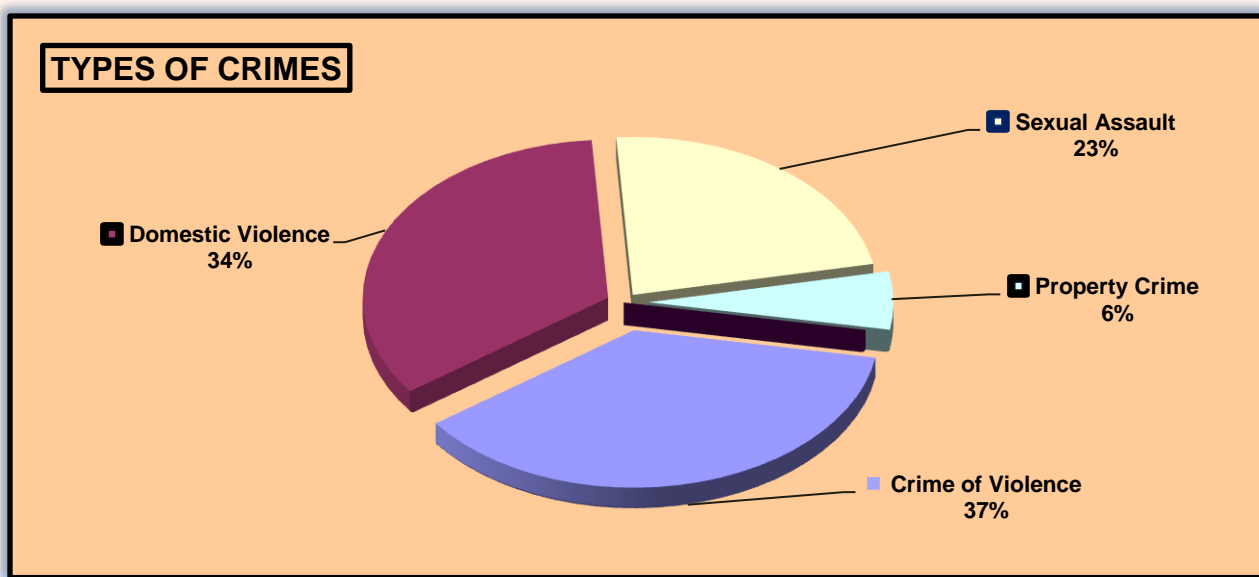
Dana Murphy-Hoffman, Special Projects Coordinator

Dana Murphy-Hoffman joined the Alaska Office of Victims' Rights in June 2006. Before joining the office, she worked with the Alaska Court System for seven years. Ms. Murphy Hoffman worked as a Judicial Assistant in the District Court and served under Judge Peter Ashman, Judge Samuel D. Adams and Judge Gregory Motyka. Ms. Murphy-Hoffman served on several planning committees for the Alaska Court System and has over ten years of experience as a legal secretary. Ms. Murphy-Hoffman's duties as Special Projects Coordinator include the Domestic Violence Fatality Review Committee. She is responsible for the administration of the individual teams conducting each fatality review and drafting team reports. Ms. Murphy-Hoffman has worked with the Domestic Violence Review Team for the past six years.

LEGAL SERVICES PROVIDED BY THE OVR

The following information pertains to the legal cases the OVR handled during the current reporting period of July 1, 2011 through June 30, 2012. During this period, the OVR opened 262 cases requiring active legal assistance on behalf of crime victims.

The OVR Opened 262 New Cases between July 1, 2011 and June 30, 2012.

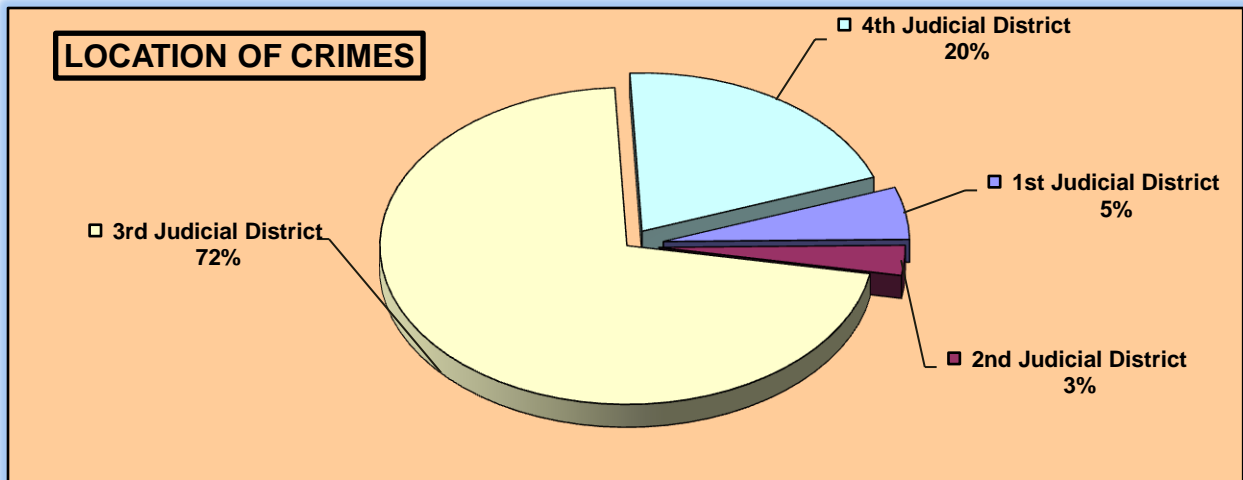


The OVR primarily assisted victims who experienced crimes against the person. These crimes involve physical assault, domestic violence, and sexual assault.

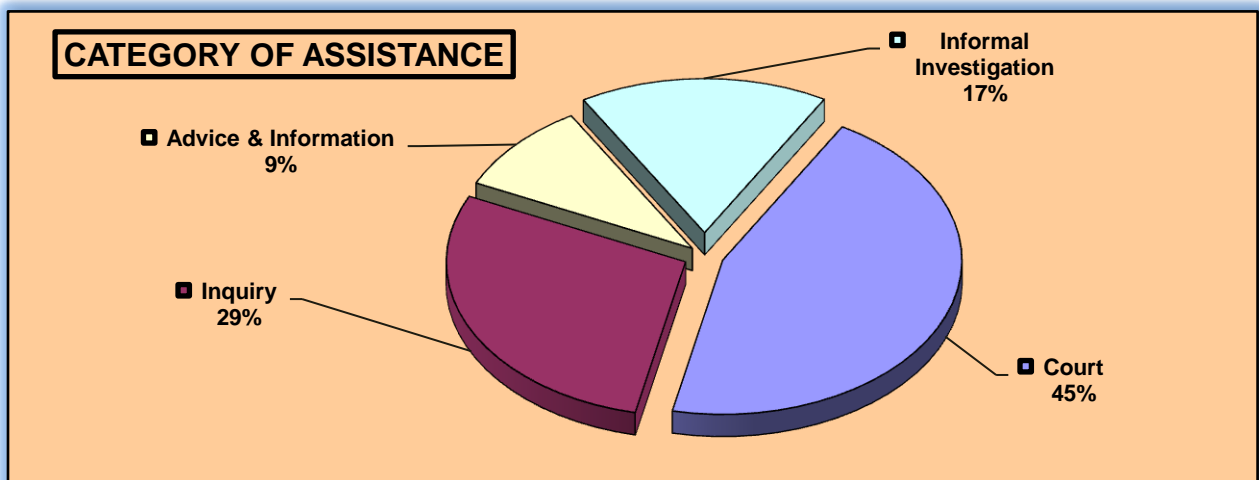
The OVR continues to help victims of sexual assault and domestic violence in significant numbers. Thirty-four percent (34%) of the OVR's caseload involved crimes of domestic violence. Twenty-three percent (23%) of the OVR's caseload centered on sexual assault crimes.

The OVR continues to assist a high number of victims of domestic violence. The number of domestic violence cases handled by the OVR in the current reporting remains consistent with the previous year. Almost one-third of OVR's caseload involves domestic violence.

The number of crimes of violence (not domestic violence related) has increased 3% from last year. The OVR has experienced an 8% decrease in the number of property crime cases during the current reporting period.



The majority of OVR cases originated in the Third Judicial District. This district comprises the most populated regions of the state — Anchorage, the Matanuska-Susitna Valley, and the Kenai Peninsula.



The OVR continues to represent clients in court, distribute information, conduct trainings, and pursue investigations on behalf of crime victims in Alaska. Approximately one-half of the OVR’s caseload requires in-court representation of crime victims. The OVR also provides substantial informational services for Alaska crime victims by responding to general inquires and providing case specific advice.

The OVR tracked crime victim data according to judicial district. The OVR handled fourteen (14) cases in the First Judicial District, eight (8) cases in the Second Judicial District, one hundred and eighty-seven (187) cases in the Third Judicial District, and fifty-three (53) in the Fourth Judicial District. In each judicial district, the OVR primarily served victims of domestic violence, and of sexual and physical assault.

REPRESENTATION OF CRIME VICTIMS IN ALASKA COURTS

The information below summarizes the assistance provided to crime victims by the OVR during the last fiscal year:

Advice and Information:

Twenty-five (25) crime victims sought advice or information from the OVR. This means that after speaking with OVR lawyers and staff, the crime victims filed formal written documents (standard OVR complaint forms) with the OVR. These cases were easily resolved and involved minimal document collection and preparation. Primarily they involved individuals who needed information about how the judicial system operates and wished to have a third party look over their case to determine whether it proceeded as other cases in similar situations.

Inquiry:

Seventy-five (75) crime victims came to the OVR with particular problems or concerns regarding active criminal cases. These clients filed formal written requests with the OVR. These cases required the OVR to seek documentary evidence from justice agencies. In addition, these cases required significant hands-on involvement with the victims by OVR attorneys and staff. Often these cases require the development of a cooperative relationship between the OVR, the client, and the justice agencies involved.

Informal Investigation:

Forty-four (44) crime victims came to the OVR with significant problems or concerns regarding active criminal cases during the current reporting period. These clients filed formal written requests with the OVR, and their cases required the OVR to seek documentary evidence from justice agencies. These cases were significant in terms of the number of documents collected and reviewed, the time commitment required from the OVR lawyers and staff, and the level of inquiry into justice agency affairs. These cases did not result in the publication of a formal report pursuant to AS 24.65.160 but were resolved through informal means and communication with participating criminal justice agencies.

Formal Investigation:

None of the OVR cases during the instant reporting period resulted in progression to the formal investigation stage described in AS 24.65.160.

Court Representation:

One hundred and eighteen (118) clients came to OVR with significant problems or concerns regarding active criminal cases and the desire to participate in court proceedings. In addition to requesting documentary evidence from judicial agencies, these cases gave rise to an OVR attorney presence in the courtroom on behalf of the victim and their interests. Examples of court representation include cases in which OVR staff attorneys spoke on behalf of crime victims

at hearings, including juvenile adjudications, involving bail, change of plea and sentencing, as well as at trial.

Contacts

One hundred and ninety-seven (197) persons (including those who were not specifically identified victims of crime and governmental agencies) contacted the OVR for information, legal advice, or referrals to other victim service agencies. Many of these individuals were not eligible to file a complaint or to request OVR services due to lack of OVR jurisdiction. These figures are not included in the total number of new cases opened during the reporting period. The services provided for these crime victims and contacts did not result in a new OVR case being opened.

During the current reporting period, the OVR served 459 Alaska residents by protecting their rights as crime victims and by providing information about the criminal justice system.¹

¹ OVR caseload calculation: 262 new cases + 197 contacts = 459 Alaska residents served by the OVR.

THE OVR AND ALASKA CRIMINAL JUSTICE AGENCIES

The OVR staff continues to maintain their expertise in crime victim advocacy. The OVR also provides training to criminal justice professionals in Alaska to further the interests of Alaska crime victims. The following information summarizes the trainings attended and provided by the OVR during the current reporting period.

<u>Date</u>	<u>OVR Trainings Attended</u>
May 4, 2012	<p>Alaska Bar Association Convention, Continuing Legal Education: “U.S. Supreme Court Update;” “Alaska Appellate Update;” “Ethics & Technology: The Pitfalls of Daily Law Office Computing.”</p> <p>The OVR Executive Director attended the aforementioned Alaska Bar Association trainings regarding recent developments in the law at both the federal and state level.</p>
June 1, 2012	<p>Legislative Ethics Training</p> <p>In-coming Executive Director Taylor Winston completed her mandatory legislative ethics training with the Office of Legislative Ethics.</p>
June 8-9 2012	<p>National Crime Victims’ Law Institute, Annual Conference, Portland, Oregon</p> <p>Kathy Hansen and Taylor Winston attended the annual NCVLI conference and met with national leaders in the victim advocacy movement and attending continuing legal education programs relating to representing crime victims in court.</p>
June 14, 2012	<p>2012 Annual Ethics Updates: This Would Never Happen in Criminal Practice; This Would Never Happen in Civil Practice</p> <p>Irene Tresser, Kathy Hansen, and Taylor Winston attended the Alaska Bar Association’ Continuing Legal Education program on ethical considerations in criminal and civil practice.</p>

Date

OVR Trainings Provided

July 2011

2011 Governor’s Family Picnic, Anchorage, Mat-Su Valley

OVR Executive Director Victor Kester attended the Governor’s Family Picnics and distributed information and materials regarding crime victim’s rights at a table with other organizations providing services in the community.

September 7, 2011

Domestic Violence and Sexual Assault Initiative Work Group, State of Alaska, Office of the Governor Steve Parnell, DVSA Initiative, Anchorage, Alaska

Mr. Kester presented materials on the Alaska Constitutional Rights of crime victims in Article I, Section 24 of the Alaska Constitution and the statutory rights of crime victims in Alaska

October 14, 2011

Crisis Intervention Training, Advocates for Victims of Violence, Inc., Valdez, Alaska

Mr. Kester instructed legal advocates on the rights of crime victims, practical conflict resolution skills and the services available through the OVR.

November 13, 2011

“Lead On! For Peace and Equality in Alaska, Mini-Summit 2011”; Alaska Network on Domestic Violence and Sexual Assault, Anchorage, Alaska

Mr. Kester served on a policy panel with Anchorage Assemblyperson Elvi Gray-Jackson, Walt Monegan, and Lisa Mariotti in an exercise with rural Alaskan youth in Anchorage. The exercise focused on developing critical thinking and speaking skills amongst school-aged Alaska residents.

November 17, 2011

Kodiak Women’s Resource and Crisis Center, Kodiak, Alaska

Mr. Kester met with legal advocates and staff at the Kodiak domestic violence shelter to discuss processes in the criminal justice systems, crime victim constitutional rights and resources available through the OVR.

December 7-8, 2011

**Sexual Assault Response Team, Sustainability Meeting,
Juneau, Alaska**

Mr. Kester participated in this training and symposium regarding initiatives to improve procedures for sexual assault response in Alaska.

February 28-29, 2012

**State of Alaska, Department of Corrections, Adult Probation
& Parole; Interior Alaska Center for Non-Violent Living;
Fairbanks, Alaska**

Mr. Kester travelled to Fairbanks to advise the Fairbanks, Department of Corrections, Adult Probation & Parole Unit about the role of the OVR in the Alaska criminal justice system. The OVR Executive Director also taught a program about the constitutional rights of crime victims to the legal advocates and staff members of the Interior Alaska Center for Non-Violent Living.

May 22, 2012

**Annual Statewide Crime Conference, Department of Law,
Task Force on Standards & Training of Evidence Technicians
Meeting, Juneau, Alaska**

Mr. Kester, Ms. Winston, and Investigator Young led a discussion regarding the implementation of Senate Bill 30 into existing criminal rules and executive branch procedures. Ms. Winston will serve as a member of the Task Force on the Standards and Training of Evidence Technicians and the Forensic Science Task Force.

THE OVR AND SYSTEM/COMMUNITY-BASED ADVOCACY GROUPS

The OVR continues its work with system and community-based advocacy groups on behalf of Alaska crime victims. Community-based advocacy groups are citizen advocates and professionals dedicated to improving the lives of crime victims. System-based advocacy groups are legal and law enforcement professionals employed by state and local government.

System-Based Advocacy Groups

The OVR Executive Director is appointed as a member to the Alaska Bar Association's Criminal Rules Committee which allows the OVR to participate in the court rules process and provide valuable input regarding victim issues to the committee.

The OVR serves as a member of the Forensic Science Task Force. The Department of Law leads this multi-disciplinary group charged with reviewing and improving procedures for the retention of property during the course of the criminal case and appeal.

The OVR works closely with the Anchorage Domestic Violence Fatality Review Team (DVFRT), created by the Municipality of Anchorage to review cases and make system-wide recommendations relevant to domestic violence fatalities. The OVR attends meetings of the Anchorage Domestic Violence, Sexual Assault and Child Abuse Caucus, and serves on the law and legal subcommittee of the caucus.

The OVR attends meetings in support of the work of the State of Alaska Executive Branch to increase public awareness concerning domestic violence and sexual assault crimes in Alaska. The OVR Executive Director served on the Core Victim Services Sub-Group and participated in the Sexual Assault Response Team (SART) Sustainability program. The OVR Executive Director worked with the Violent Crime Compensation Board, among others, on the SART Costs working group to develop regulations and improve system-based responses for sexual assault victims. The OVR Executive Director also participated in the Governor's Choose Respect campaign in Anchorage and in the Palmer / Wasilla area.

Community-Based Advocacy Groups

The OVR supports the efforts of community-based advocacy groups. The OVR coordinates with Victims for Justice and served on its Task Force for the 2012 National Crime Victims' Rights Week. The OVR continues to support the mission of the Abused Women's Aid in Crisis (AWAIC) and Standing Together Against Rape (STAR).

The OVR seeks to continue its partnership with community and system based advocacy groups to improve the experience of crime victims in the criminal justice process. The OVR reaches out to the community; for example, the OVR participated in the Project Homeless Connect in Anchorage (raising awareness of OVR legal services) and supported the work of the Alaska Native Justice Center.

(Community-based Advocacy Groups – Continued)

The OVR also assisted many organizations, including the Alaska Legal Services Corporation, the Municipality of Anchorage Prosecutor's Office, the Department of Health and Human Service and the State of Alaska, in attaining grant funding.

The OVR director worked closely with the Council on Domestic Violence and Sexual Assault, as well as the Network on Domestic Violence and Sexual Assault, on various projects involving training of legal advocates and providing input on the development of public policy that advances the interest of crime victims in Alaska.

THE OVR AND THE DOMESTIC VIOLENCE FATALITY REVIEW COMMITTEE

The OVR Executive Director Victor Kester chaired the Domestic Violence Fatality Review Team (DVFRT) Advisory Committee for several years. In 2008-2009, the DVFRT Advisory Committee completed two mock reviews in an effort to improve and standardize its policies and official protocol. In March 2010, Mr. Kester testified before the Anchorage Assembly pursuant to Municipal Ordinance 16.75 regarding the progress of the DVFRT.

Mr. Kester continued to serve as an *ex officio* member of the DVFRT Advisory Committee during the current reporting period. The OVR provides on-going administrative support to the DVFRT Advisory Committee and the Review Teams. The OVR Special Projects Coordinator, Dana Murphy-Hoffman, continued to work closely with the DVFRT. The DVFRT Review Teams are presently working to complete case reviews and formulating system-wide recommendations to submit to the DVFRT Advisory Committee. Ms. Murphy-Hoffman has made an outstanding contribution to the DVFRT in her work at the Alaska Office of Victims' Rights.

During the reporting period, the DVFRT met monthly to continue its vital work to understand and improve system wide responses to domestic violence. The team completed one review of a domestic violence fatality and substantially completed a second review this year. A third review is scheduled to begin in September 2012.

The OVR continues to work with the DVFRT to understand domestic violence crime and improve system-wide responses for crime victims. The OVR remains committed to this project in order to help victims of domestic violence in Anchorage and throughout the state.

RURAL ALASKA OUTREACH

The OVR continued its educational outreach to communities outside of the metropolitan area of Anchorage.

During the 2012 reporting period, the OVR Executive Director Victor Kester traveled to Fairbanks, Valdez, and Kodiak to provide training to victim advocates and to listen to their concerns.

The OVR's rural Alaska outreach effort expands and strengthens the OVR's network of community and system-based advocacy groups, healthcare providers, law enforcement, court system and Department of Law personnel to further the interests of crime victims statewide. The OVR respectfully recognizes and supports the work of victim advocates and legal professionals in remote communities and their commitment to improving public safety.

In Kodiak, Mr. Kester conducted a training at the Kodiak Women's Resource and Crisis Center with advocates about available OVR services and the constitutional and statutory rights of Alaska crime victims.

In Valdez, Mr. Kester met with legal advocates and discussed crime victim rights and exchanged experiences with the criminal justice system. Mr. Kester participated at the Crisis Intervention Training sponsored by the Advocates for Victims of Violence, Inc. The OVR presentation provided training on the rights of crime victims, practical conflict resolution skills and an overview of the services available through the OVR.

In Fairbanks, Mr. Kester presented materials on crime victims' rights to legal advocates and staff members of the Interior Alaska Center for Non-Violent Living. He listened to firsthand accounts of the difficulties and successes of helping crime victims of domestic violence in the criminal justice system. He also worked with the State of Alaska, Fairbanks Department of Corrections, Adult Probation and Parole to develop and initiate innovative programs and system responses involving domestic violence crimes in the interior region of Alaska.

The OVR, through cooperation and collaboration, seeks to work with others to improve crime victims' experiences in the criminal justice system in communities throughout Alaska. The OVR remains committed to implementing the suggestions for improving access to legal services to crime victims in less populous regions of the state.

LAW ENFORCEMENT OUTREACH

The Alaska Office of Victims' Rights Investigator, Joseph Young, established personal dialogues with numerous police chiefs, deputy chiefs, captains and lieutenants throughout Alaska. Mr. Young met with Alaska State Trooper detachments in Anchorage, Soldotna and Palmer, including commanders and records personnel. He also initiated personal contacts with police chiefs from Cordova, Homer, Kenai, Palmer, Seward, Soldotna, Wasilla and Yakutat.

In addition, Mr. Young attended meetings to further the working relationship with the various agencies and to enhance the mutual knowledge of victims' rights. These meetings included:

- Monthly Peninsula Police Chief's Meeting, Soldotna: Mr. Young, presented a program regarding OVR's mission, regulations, and access to criminal justice records. He led a discussion of the benefits of victim participation during the course of criminal prosecutions. He also provided digital and hard copy support documentation regarding OVR services.
- Evidence Rules Task Force Meeting, Juneau: Mr. Young attended the overview and discussion of impact and implementation of Senate Bill 30 in Juneau, Alaska.
- Anchorage Police Department: Mr. Young met with the APD records captain, supervisors, and clerks to discuss OVR purpose, regulations, and access to records. He also provided digital and hard copy support documentation.
- Wasilla Police Department: Mr. Young met with the new police chief to discuss the OVR's mission, regulations and statutory basis for attaining criminal justice records.

The OVR seeks to continue to work with law enforcement in the year ahead in a constructive manner, to advance the interests of crime victims and improve the administration of justice.

SENATE BILL 30

AN ACT

“An Act providing for the release of certain property in the custody of a law enforcement agency to the owner under certain conditions and relating to requests for that release by the office of victims’ rights”

Senate Bill 30 was passed into law by the Alaska Legislature in 2012. The Act amends Alaska Statute 12.36, (specifically, AS 12.36.070 Return of property by hearing) and Alaska Statute 24.65 (specifically, AS 12.65.115 Authority to request return of property on behalf of certain persons).

Alaska Statute 12.36.070, Return of property by hearing, establishes a procedure whereby a crime victim may request that the OVR seek return of property in possession of a law enforcement agency. Interested parties in the property must receive notice of the crime victim’s request to seek return of his or her property.

The statute provides a mechanism whereby the OVR (representing the crime victim’s property interest) may seek redress before the court with jurisdiction of the criminal case regarding the return of the crime victim’s property currently held by the law enforcement agency.

The court may order the law enforcement agency to return the property to the crime victim. To do so, the court must first find by a preponderance of evidence satisfactory proof of ownership by the crime victim. Second, the court may order return of the property if an objecting party fails to prove by a preponderance of evidence) that it must be retained for evidentiary purposes. AS 12.36.070(c). If the court orders the return of the property to the crime victim, the “court may impose reasonable conditions on the return” of the property. AS 12.36.070(d).

Alaska Statute 24.65.115, Authority to request return of the property on behalf of certain persons, authorizes the victims’ advocate to file a request with a law enforcement agency for the return of property to a crime victim. The victims’ advocate must first conduct an investigation and determine that the crime victim is entitled to the property’s return under the factors listed in AS 12.36.070(c) (principally - crime victim ownership and the fact that the property is not needed for evidentiary purposes).

The OVR Executive Director, D. Victor Kester, testified in support of Senate Bill 30 in the course of the legislative process. Mr. Kester worked with Senator Dyson’s office and his Chief of Staff, Chuck Kopp on this important legislation. The OVR will seek to work with other criminal justice agencies and law enforcement personnel in a spirit of cooperation and collaboration to implement these changes in the law. The OVR seeks to aid crime victims seeking the appropriate and reasonable return of their property in an expeditious manner.

Senate Bill 135

AN ACT

“Relating to the rights of crime victims; relating to the duties of prosecuting attorneys; relating to the victims’ advocate and to the term of office of the victims’ advocate; relating to the appointment of counsel for persons accused of crimes; amending Rules 39.1 and 45, Alaska Rules of Criminal Procedure; and providing for and effective date.”

Senate Bill 135 was signed into law on June 20, 2012 by Governor Sean Parnell at the Anchorage Police Department in Anchorage, Alaska.

Mr. Kester worked with and advised the Office of Senator Hollis French on the bill during the course of the last legislative session. He also provided testimony in support of the legislation.

The above referenced Act amends AS 12.61.010(a), AS 12.61.015(a), AS 12.65.040, and AS 12.65.060. The Act also amended the Alaska Rules of Criminal Procedure, specifically, District Court Rules 39.1(e), 45(d)(2), and 45.

The recently amended Alaska Statute 12.61.010(a) provides that a crime victim has a right to be notified by law enforcement and the prosecuting attorney of any request for a continuance that substantially delays prosecution of a criminal case.²

Amended Alaska Statute 12.61.015(a) requires a prosecuting attorney to make reasonable effort to inform the victim of a felony or a crime involving domestic violence (if he or she requests notification) of a motion to delay the prosecution.³

The current amended Alaska Statute 12.65.040 revises the term of office for the victims’ advocate at the OVR. Alaska Statute 24.65.040(a) requires: “To be eligible for reappointment at the conclusion of each five-year term of service, a victims’ advocate seeking reappointment must submit to the victims’ advocate selection committee an application for reappointment.”

Amended Alaska Statute 24.65.060 changes the compensation for the victims’ advocate.

² Alaska Statute 12.61.010(a)(2): “the right to be notified by the appropriate law enforcement agency or the prosecuting attorney of **any request for a continuance that may substantially delay the prosecution and of** the date of trial, sentencing, including a proceeding before a three-judge panel under AS 12.55.175, and appeal, and any hearing which the defendant’s release from custody is considered”.

³ Alaska Statute 12.61.015(a)(5): “**inform the victim of a pending motion that may substantially delay the prosecution and inform the court of the victim’s position on the motion**; in this paragraph, a “substantial delay is

(A) for a misdemeanor, a delay of one month or longer;
(B) for a felony, a delay of two months or longer; and
(C) for an appeal, a delay of six months or longer.”

Alaska Statute 24.65.060 Compensation, provides: the victims advocate is entitled to receive an and annual salary of [Equal to Step A,] Range 26[,] on the salary schedule set out in AS 39.27.011(a) for Juneau.”

The changes to AS 24.65.060 and AS 24.65.040 improve the administration of the OVR.

The changes to AS 12.61.010(a) and AS 12.61.015(a) strengthen notification standards for informing crime victims of a request for a continuance that may substantially delay the prosecution of a criminal case.

The components of this legislation fortify a crime victim’s statutory rights and Alaska Constitutional rights to be “treated with dignity, respect, and fairness” and “to timely disposition of a case.”⁴ The legislation stands to amplify the crime victim’s voice before the court and for his or her voice to be considered regarding delay in the criminal justice process.

The legislation changes the Alaska Rules of Criminal Procedure by allowing a crime victim a greater opportunity to be heard before the court regarding continuances.

Under Alaska Criminal Rule 39.1(e), a defendant may be “subject to penalties for perjury” to determine eligibility for court-appointed counsel. Alaska Criminal Rule 45(d)(2).

Alaska Criminal Rule 45(d)(2) requires that the “court shall grant such a continuance only if it is satisfied that the postponement is in the interests of justice, taking into account the public interest in the prompt disposition of criminal offenses, and after consideration of the interests of the crime victim, if known, as provided in (h) of this rule.”

Alaska Criminal Rule 45(h) again provides for crime victims to address the court regarding continuances: “Before ruling on a motion for a case involving a victim, as defined in AS 12.55.185, the court shall consider the victim’s position, if known, on the motion to continue and the effect of a continuance on the victim.”

⁴ Alaska Constitution, Article I, Section 24.

OF INTEREST

The following information is provided to give members of the Alaska Legislature and the public a flavor of the specific work that the OVR is doing to improve the lives of crime victims in Alaska.

PROTECTING CRIME VICTIMS' PRIVACY RIGHTS

The OVR has seen a significant increase in the number of criminal defendants filing motions to compel production of crime victims' mental health, substance abuse, and medical records. This is particularly true in sexual assault and sexual abuse cases. Criminal defendants are asserting, in the most general terms, that these crime victims may have difficulty perceiving reality due to alcoholism, combative natures, or possible (although not necessarily confirmed) mental health diagnoses. For example, in the case of N.G., the trial court granted the defense's motion to compel. The court ordered N.G., a victim of a brutal physical and sexual assault, to provide all her mental health, medical and substance abuse treatment records to the court for *in camera* review. Even more invasive, the court ordered N.G. to compile a list of all her treatment providers and to file this list with the court to facilitate the court's efforts to locate these records. N.G.'s treatment providers are not mentioned anywhere in the investigative report.

Given the marked increase in motion work, the disparate decisions being meted out at the trial court level because Alaska case law is unclear, and the fact that this issue is one of the greatest import to crime victims' sense of fair treatment by the criminal justice system, the OVR filed an application for relief to the Alaska Court of Appeals, at the request of N.G. That application was accepted. Briefing is complete and oral argument was heard on April 24, 2012. N.G., through the OVR, takes the position that requiring a crime victim to provide the court a list of treatment providers violates her right to privacy in all the records and her right to privilege in the substance abuse and mental health records. If the privilege is to be pierced, N.G. argues, it should be pierced in the interest of justice, vis-a-vis criminal defendants as well. The case of N.G. vs. The Superior Court, Court of Appeals A-11049 is ripe for a decision.

THE SATIFICATION OF VICTIM ADVOCACY: A PERSPECTIVE OF A NEW VICTIMS' ADVOCATE ATTORNEY (Irene Tresser)

Since I began my employment with OVR in early February of this year, I have enjoyed so many of our clients. My experience with J.B. has been particularly gratifying. J.B. had a sister with disabilities. Because so many people helped her sister when she could not, J.B. wished to give back to her community. She took a night job at an assisted living home. One day, a patient at the home attacked and stabbed J.B., causing significant physical and emotional harm. Because of this experience, J.B. has taken an interest in reaching out to crime perpetrators to let them know what it feels like to be a crime victim. She speaks with passion and clarity, and I believe J.B. will have a positive impact on any perpetrator who will take even a few minutes to listen to what she has to say.

REFLECTIONS ON VICTIMS' ADVOCACY IN ALASKA (D. Victor Kester)

Crime victim advocacy in Alaska benefits from cooperation and collaboration between the Alaska Office of Victims' Rights (OVR), criminal justice agencies, and the court.

The OVR (located in the representative branch of state government) reaches out to Alaska residents in rural communities, to assist and inform them of their Alaska Constitutional and Statutory rights.

The OVR stands to increase public safety by encouraging crime victims to respect the law and work constructively with criminal justice agencies.

The OVR works successfully with community and system based advocacy groups to improve the criminal justice system and the experience of crime victims. The OVR makes a positive contribution to the resolution of legal issues involving domestic violence and sexual assault crimes.

The OVR serves individual clients before the court mindful of the principles embodied in the Alaska Constitution of dignity, respect and fairness.

Fundamentally, the OVR amplifies the voice of a crime victim and aids in having his or her voice considered before the court. This improves the administration of the criminal justice system and helps victims achieve restorative justice.

I am grateful to the residents of Alaska and Alaska Legislature for the opportunity to serve as the Executive Director and Victims' Advocate of the OVR for the course of a complete five-year appointment term. I believe the objectives outlined above were largely achieved during this time; and I remain confident that the OVR will continue to beneficially serve Alaska crime victims in the future.

DIRECTIONS FOR THE FUTURE

The Alaska Office of Victims' Rights (OVR) seeks to improve the experience of crime victims in Alaska courts. The OVR remains vigilant in protecting crime victims' rights in accord with the Alaska Constitution and statutes.

Ms. Winston is the new Executive Director and Victims' Advocate for the Alaska Office of Victims' Rights. She brings significant trial and prosecutorial experience to the OVR. Ms. Winston and the OVR team will continue the mission of the agency to represent Alaska residents in court and protect their constitutional and statutory rights.

ADDENDUM

Senate Bill 30

Senate Bill 135

