



# **ALASKA OFFICE OF VICTIMS' RIGHTS ANNUAL REPORT TO THE ALASKA LEGISLATURE**

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# **INTRODUCTION**

The Alaska Office of Victims' Rights (OVR) serves three functions: 1) to preserve and protect crime victims' rights under the Alaska Constitution and statutes; 2) to investigate, like 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, OVR is an independent agency within the legislative branch of state government. OVR's placement in the legislative branch avoids conflicts in state government and ensures OVR's independence to investigate criminal justice agencies and make appropriate recommendations. Alaska Statute 24.65, *et seq.* (effective July 1, 2002) provides authority for OVR's investigative powers and responsibilities.

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. OVR provides victims with a variety of services including information, education, investigation, and courtroom advocacy. In providing these services, OVR maintains a philosophy of cooperation and collaboration when working with criminal justice agencies, the courts, and crime victims.

## **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. 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*

OVR assists crime victims by advocating for and enforcing Alaska's constitutional and statutory protections. Empowered by the Alaska Legislature, OVR functions as the legal advocate in state court for crime victims of all felony offenses, all Class A misdemeanors involving domestic violence, and all class A misdemeanors involving crimes against the person under AS 11.41. A felony is an offense for which a jail sentence of more than one year is authorized. Class A misdemeanors are crimes punishable by up to one year in jail and up to a \$5,000 fine. Crime victims may file a written request for OVR assistance to ensure their legal rights as crime victims are not denied.

## 2. *Investigating Complaints by Victims*

Crime victims may file a written complaint with 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. OVR is empowered to investigate complaints regarding victim contacts with criminal justice agencies and take appropriate action on behalf of crime victims. While conducting an investigation 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. *A.S. 24.65.120(b)*.

Some examples of information and records available to 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 OVR) are confidential as required by A.S. 24.65.110(d) and A.S. 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 and/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 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. *A.S. 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. *A.S. 24.65.130(b)*; see also *A.S. 24.65.120*.

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

OVR is obligated to maintain strict standards of confidentiality with respect to its records, investigations, and communications with clients. 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 OVR, except

insofar as disclosure of such information may be necessary to enable OVR to carry out its mission and to support its recommendations. OVR may not disclose a confidential record obtained from a court or justice agency. *A.S. 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 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. OVR must include with the opinion any reply made by the justice agency. Written consent from the complainant to release OVR's report must be obtained prior to release of any such report. *AS 24.65.160.*

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

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, OVR may not prevent or discourage a crime victim from providing evidence, testifying or cooperating in a criminal investigation or criminal proceeding. *A.S. 24.65.100(b).*

7. *OVR has Broad Civil and Criminal Immunity*

Under OVR Act, a proceeding of or decision made by the Victims' Advocate or his staff may be reviewed in superior court only to determine if it is contrary to the statutes that created 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 his staff for anything said or done in the performance of OVR's duties or responsibilities. *A.S. 24.65.180; A.S. 24.65.190; A.S. 24.65.200.*

8. *It is a Crime to Fail to Comply with 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. *A.S. 24.65.210.*

## **THE OVR TEAM**

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

### ***Taylor E. Winston, Executive Director***

Ms. Winston has served as the Chief Victims' Advocate and Executive Director of OVR since 2012. 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 Dallas in 1985. She earned her Master of International Affairs from Columbia University in New York City 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 domestic violence assaults, sexual assaults, sexual abuse of minors, and homicide cases. During her thirteen-year career 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. She 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, 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 OVR.

### ***Shaun M. Sehl, 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.

***Shannon Eddy, Victims' Rights Attorney***

Ms. Eddy grew up primarily in the Northwest. She attended Western Washington University and graduated in 1997 with a Bachelor of Arts in Communications. After graduating from the University of Oregon School of Law in 2003, she moved to Alaska to clerk for Superior Court Judge Michael Wolverton. Ms. Eddy worked as an Assistant District Attorney in Anchorage and in Kodiak. She also worked for the Office of Special Prosecutions in the alcohol interdiction unit. In March of 2011, Ms. Eddy became the first lawyer in the state to work out of a woman's shelter in Dillingham with Alaska Legal Services Corporation. She represented domestic violence and sexual assault survivors in obtaining protective orders and in custody cases. Ms. Eddy returned in Anchorage in March of 2012 to continue the same practice on behalf of the Alaska Network of Domestic Violence and Sexual Assault. Ms. Eddy joined the Office of Victims' Rights in August 2015.

***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 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.

***Darlene Su'esu'e, Legal Secretary***

Ms. Su'esu'e was born in Hawai'i and raised in Anchorage. She graduated from Eastern Washington University in 2015 with a Bachelor of Arts in Government. Ms. Su'esu'e completed her undergraduate internship with Spokane Public Defense. After moving back to Anchorage, Ms. Su'esu'e worked as a legal assistant in a family law practice before joining the Alaska Office of Victims' Rights in August of 2017.

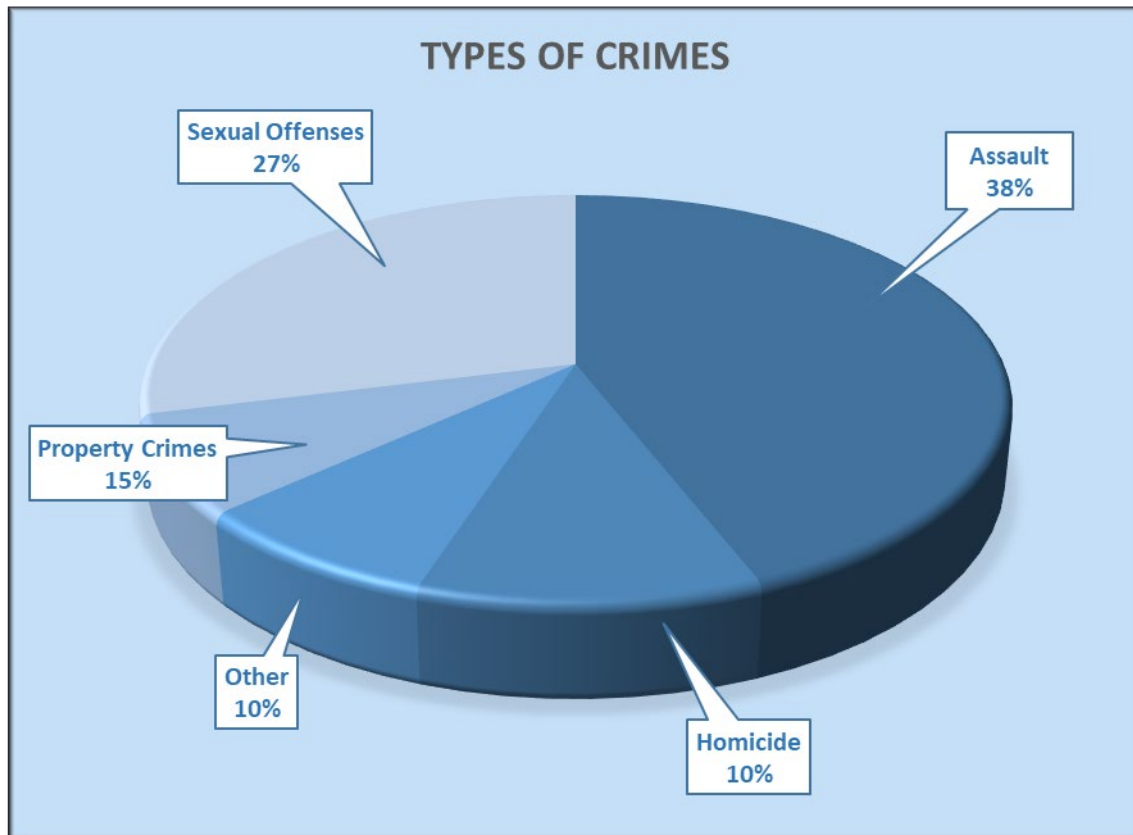
***Linnea Deisher, Law Office Assistant***

Ms. Deisher was born and raised in the Anchorage area. She left Anchorage to pursue her education at the University of Alaska Fairbanks. While completing her studies, Linnea interned at the Fairbanks District Attorney's Office. In 2017, Linnea graduated with a Bachelor of Arts degree in Criminal Justice. Linnea joined the Alaska Office of Victims' Rights in November 2017.

## OVR'S ANNUAL CASE STATISTICS

The following information pertains to the cases opened by OVR during the current reporting period of July 1, 2018 through June 30, 2019. During this period, 252 new cases were opened which required OVR's assistance on behalf of crime victims.

**OVR opened 252 new cases between July 1, 2018 and June 30, 2019**

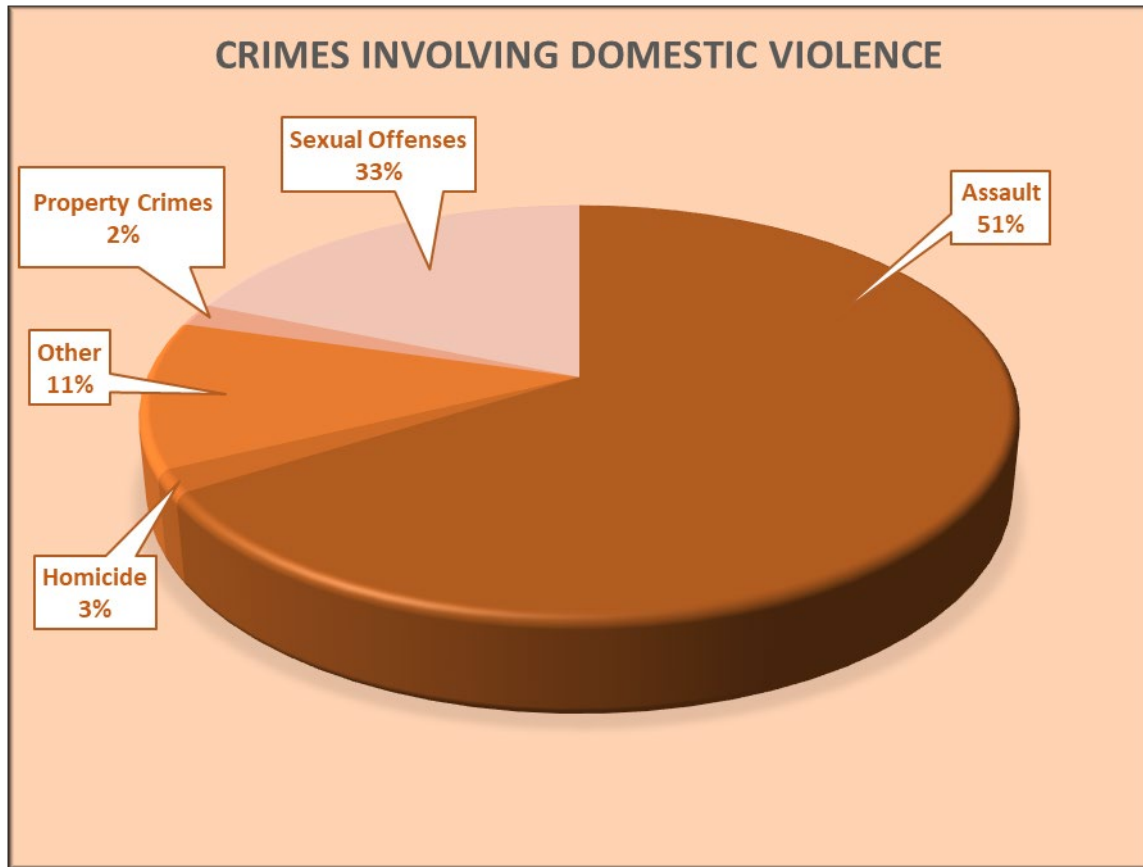


OVR primarily assisted victims who experienced crimes against the person although property crime victim representation increased noticeably. Crimes against a person includes crimes such as homicide, kidnapping, assault, robbery and sexual offenses. Property crimes include crimes such as burglary, vehicle theft, theft, forgery, and embezzlement. Forty-five percent (45%) of this year's new cases involved crimes of assault. OVR's representation in sexual offense cases increased six percent (6%) this year to twenty-seven percent (27%) of OVR's new cases. OVR representation of new homicide victims remained steady at ten percent (10%), up from five percent (5%) two years ago, but the same as last year. Similarly, the number of property victims represented by OVR cases remained approximately the same percentage as last year but is three percent (3%) higher than it was in 2017.

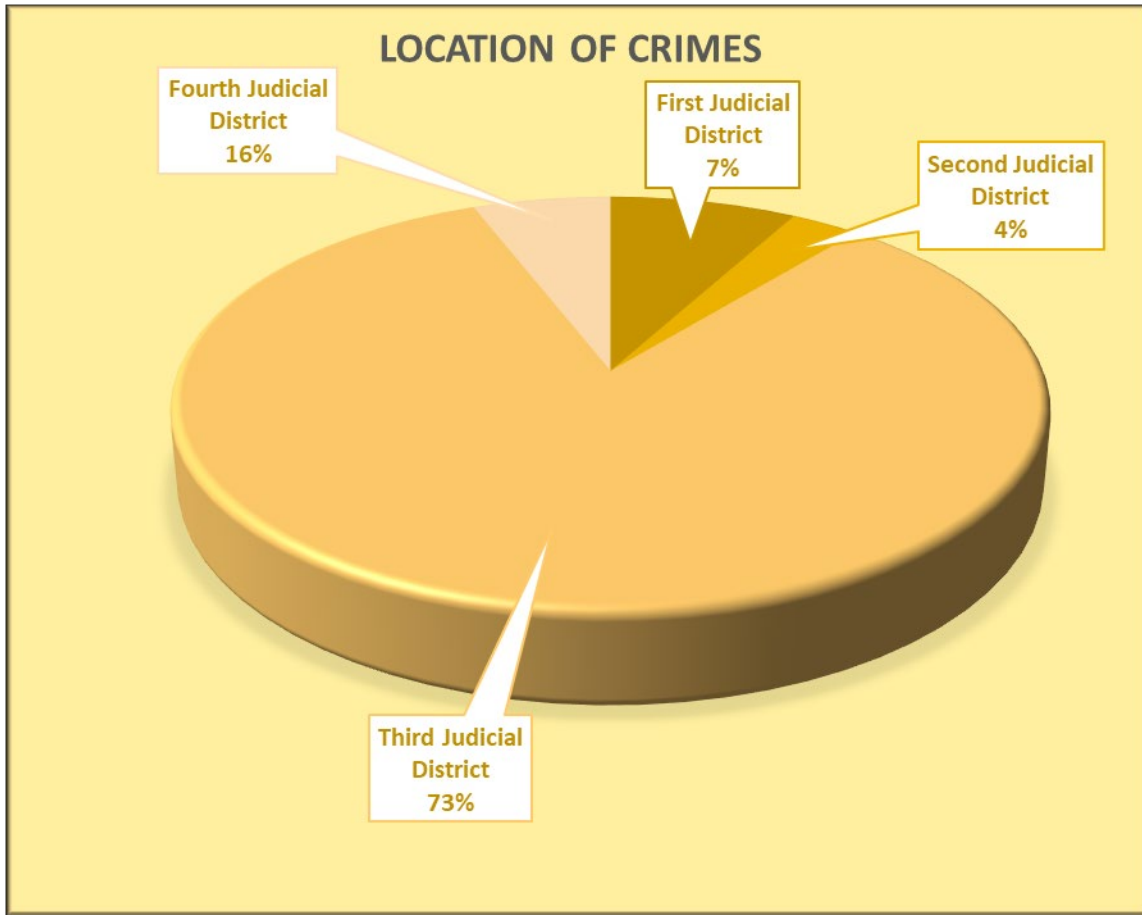
OVR continues to assist a high number of victims of domestic violence. The number of domestic violence cases opened in this reporting year, however, again decreased compared to the previous year. Thirty-seven percent (37%) of this year's cases involve domestic violence crimes. Within the category of domestic violence, there was a notable shift in the type of domestic violence



crimes victims suffered. Last year sixty-six percent (66%) of OVR’s domestic violence cases were assault crimes, whereas this reporting year the number of domestic violence assault cases OVR assisted in decreased notably to fifty-one percent (51%). However, the number of domestic violence related sexual offense cases dramatically increased to thirty-three percent (33%) compared to nineteen percent (19%) last year.



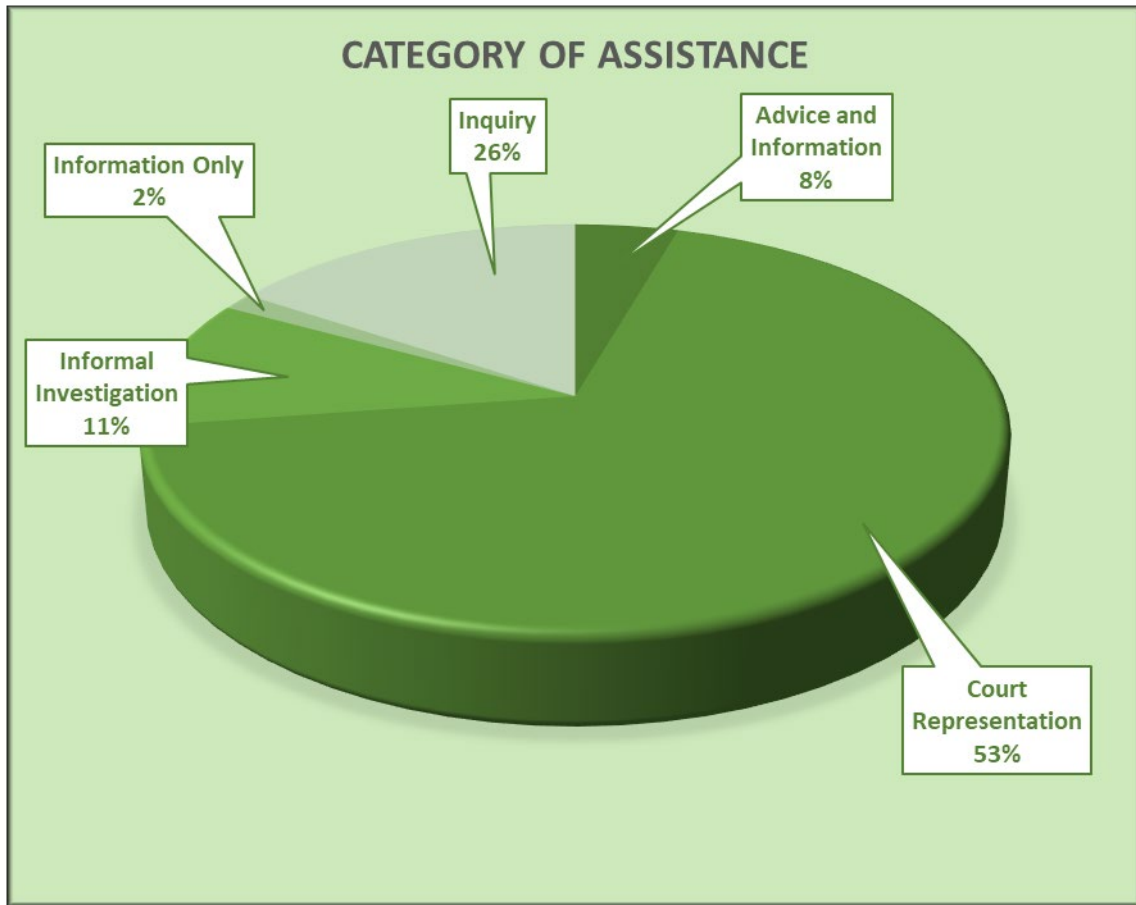
The majority of OVR new cases continue to originate from the Third Judicial District. Given that this area comprises the most populated region of the state including the Anchorage bowl, the Matanuska-Susitna Valley, and the Kenai Peninsula, it is no surprise that the majority of this year’s cases originated in the Third Judicial District. Seventy-three percent (73%) of the cases opened this year originated in the Third Judicial District, which is the same percentage as last year. The number of cases from the First Judicial District remained the same at seven percent (7%) while cases from the Fourth Judicial district dropped from seventeen (17%) to sixteen percent (16 %) and the cases from the Second Judicial District rose from three percent (3%) to four percent (4%) this year.



OVR tracks crime victim data according to judicial district in which the crime occurred. OVR opened 17 cases from the First Judicial District, 11 cases from the Second Judicial District, 185 cases from the Third Judicial District, and 39 cases from the Fourth Judicial District

## **ASSISTANCE PROVIDED TO CRIME VICTIMS**

The information below summarizes the assistance provided to crime victims by OVR during the last fiscal year. More than half (53%) of all OVR's new cases involved in-court representation of crime victims in some degree. OVR also provides substantial informational services for Alaska crime victims by responding to general inquires and providing case specific advice. The "inquiry" category saw a notable change this year with the number rising from seventeen percent (17%) of OVR's new cases last year to twenty-six percent (26%) of new cases this year in which OVR assisted victims. The statistics presented for this reporting year only reflect the level of assistance for cases opened during the reporting period.



**Advice and Information:**

Twenty-one (21) crime victims sought advice or information from OVR. This means that after speaking with OVR lawyers and staff, the crime victims filed formal written documents (standard OVR complaint forms) with 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:**

Sixty-four (64) crime victims came to OVR with particular issues or concerns regarding active criminal cases. These clients filed formal written requests with OVR. These cases required 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 OVR, the client, and the justice agencies involved.

### **Informal Investigation:**

Twenty-eight (28) crime victims came to OVR with significant problems or concerns regarding active criminal cases during the current reporting period. These clients filed formal written requests with OVR, and their cases required 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 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.

### **Court Representation:**

One hundred thirty-three (133) clients came to OVR with significant issues 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 victims and their interests. Examples of court representation include cases in which OVR staff attorneys spoke on behalf of crime victims at hearings involving bail, change of plea, and sentencing, including juvenile hearings.

### **Contacts:**

OVR fielded more than 1600 calls from the public this year seeking assistance with their concerns. OVR was able to provide information and/or referrals to other victim service agencies. Most of these individuals were not eligible to file a complaint or to request OVR services due to lack of OVR jurisdiction. These contact figures exclude victims who are past clients, ongoing clients, or victims who became clients in the reporting year.

## **OVR EDUCATION AND TRAINING**

OVR staff continues to maintain their expertise in crime victim advocacy and to receive training in areas which enhance our ability to better serve victims in Alaska. OVR also provides training to criminal justice professionals and advocacy organizations in Alaska to further the interests of Alaska crime victims. The following information summarizes the trainings provided by and attended by OVR during the current reporting year.

### **Date**

### **OVR Trainings/Outreach Provided**

September 4, 2018

**CTC Law Enforcement Interior Academy, Fairbanks**

Taylor Winston traveled to Fairbanks to provide training to law enforcement officers and recruits at the Interior Academy about victims' rights and the requirements law enforcement officers have as they pertain to OVR and to victims' rights.

November 21, 2018

**Anchorage Police Department Academy, Anchorage**

Taylor Winston provided training to new officer recruits at the APD Academy. She provided information on officers' obligations to crime victims but also what services OVR provides to crime victims and interfaces with law enforcement across the state.

December 19, 2018

**Guardian Ad Litem, Office of Public Advocacy, Anchorage**

Taylor Winston provided training to guardian ad litem (GALs) at the Office of Public Advocacy about OVR and how GALs can work with OVR to help best protect the rights of minor child victims.

January 9, 2019

**Legislative New Employee Orientation, Juneau**

Taylor Winston presented an overview of OVR and victims' rights in Alaska to incoming legislative staff members.

January 9, 2019

**Prisoner Reentry Summit, Wasilla**

Kathy Hansen participated in a panel along side representatives for the Violent Crimes Compensation Board and Victims for Justice at the Prisoner Reentry and Our Community Summit hosted by the Mat-Su Prisoner Reentry Coalition in Wasilla

May 16, 2019

**650 KENI AM Radio, Anchorage**

Taylor Winston was a guest on 650 KENI's Mike Porcaro show. She provided general information about victims' rights and OVR to listeners and fielded questions from callers.

**OVR Trainings Attended**

Oct. 12, 2018

**The Alaska Constitution, Anchorage**

Shannon Eddy attended a training about the Alaska Constitution and how our constitution has evolved over the past 60 years. The training also covered the selection process for judges in Alaska and offered a native perspective regarding the constitution.

Oct. 24-25, 2018

**“Sharpening Your Teeth”, Advance Investigative Training For Administrative Watchdogs**

Taylor Winston, Shannon Eddy, Shaun Sehl, and Kathy Hansen attended this course taught by the Ontario Ombudsman. The training covered the principles of investigations, an introduction to

systemic investigations, investigative planning, witness and interviewing, assessing evidence, report writing, and how to optimize relationships with other agencies.

Nov. 10, 2018

**Attorney Wellness & Why We Should Focus On It!, Anchorage**

Shannon Eddy attended this training where the speakers addressed the most recent research regarding mental illness and substance abuse issues among attorneys. They provided information about resources available for attorneys and the role of the Alaska Lawyer's Assistance Committee. They also provided suggestions for wellness based on the research conducted.

Feb. 7, 2019

**Sexual and Other Workplace Harassment, Anchorage**

Taylor Winston, Shannon Eddy, Kathy Hansen, Joseph Young, Linnea Deisher and Darlene Su'esu'e attended a 3-hour mandatory Legislative training. The first half of the training was taught by attorneys for the Alaska Commission on Human Rights regarding sexual harassment laws and the second half on ethics was taught by staff of the Legislative Ethics office.

March 15, 2019

**Sexual and Other Workplace Harassment, online**

Shaun Sehl attended the online version of the 3- hour mandatory Legislative training. The first half of the training was taught by attorneys for the Alaska Commission on Human Rights regarding sexual harassment laws and the second half on ethics was taught by staff of the Legislative Ethics office.

April 2, 2019

**The Hotline: an ALPS Ethics and Professionalism Program**

Shannon Eddy attended this 3-hour ethics CLE on demand. This ethics training was specific to lawyers practicing in Alaska.

## **OVR's WORK WITH SYSTEM AND COMMUNITY-BASED GROUPS**

OVR continues its work with system-based and community-based groups on behalf of Alaska crime victims. Community-based advocacy groups are groups made up of citizen advocates and professionals dedicated to improving the lives of crime victims. System-based groups are most often inter-agency committees involving city, state and sometimes federal government officials, many of whom are court, legal, and law enforcement professionals. System-based groups may also have participants who traditionally are part of community-based groups.

### Criminal Justice System-Based Groups

Attorneys from OVR participate in the Criminal Justice Working Group's (CJWG) Efficiencies and Prevention-Retention Committee. The CJWG is comprised of policymakers and top administrators who collaborate on ways to improve Alaska's criminal justice system. The CJWG works to develop long-range policies and to resolve shorter-term problems in the criminal justice system. OVR's participation allows us to have input regarding crime victim issues which arise in the criminal justice system.

Taylor Winston is a member of the Criminal Rules Committee, which consists of representatives from the Department of Law, the defense bar, the court system, the Anchorage Municipal Prosecutor's Office, and the bench. This committee meets when needed to work on amendments to existing Criminal Court Rules or propositions for new rules.

Taylor Winston is a stakeholder/member of SAKI (Sexual Assault Kit Initiative). In 2016, the Alaska Department of Public Safety (DPS) received a \$1.1M three-year SAKI grant to identify kits that had not been submitted to the crime lab for testing and, with the assistance of a group of statewide stakeholders/experts, develop victim-centered policies and procedures for processing. This initiative focused on kits untested by Alaska State Troopers. A follow-on project will focus on kits associated with other Alaska police departments. SAKI and the statewide project required under SB55 are parallel and will complement each other. Developing and implementing policy change is at the heart of both projects.

### Community-Based Groups

OVR engages in outreach to a large variety of community-based and victim support groups and supports their efforts to assist victims by providing training to advocates, as well as general information about the criminal justice process in order for those organizations to better aid crime victims in our community. OVR representatives met with representatives from Victims for Justice, non-profit legal service organizations, and domestic violence and sexual offense victim advocates over the course of the reporting year.

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. Additionally, OVR continues to seek ways to reach out to the community at large in order to educate as many people as possible about their rights should they be victimized by crime.

## **OVR AND THE DOMESTIC VIOLENCE FATALITY REVIEW COMMITTEE**

The Executive Director, under AS 24.65, is an ex officio member of each domestic violence fatality review team created under A.S.18.66.400 and may attend any meeting and review any information available to or considered by a team. The Alaska Office of Victims' Rights has been involved with the Anchorage Domestic Violence Fatality Review Committee over the years by the Executive Director serving as member of the committee and OVR providing administrative assistance to the committee. The Anchorage Domestic Violence Fatality Review Committee did not conduct any reviews this past year. No other Domestic Violence Review Teams were established in the state in this reporting year by the commissioner of public safety or other municipalities. OVR remains committed to this project in order to work to prevent domestic violence homicides in Anchorage and throughout the state.

### **RURAL ALASKA OUTREACH**

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

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

### **LAW ENFORCEMENT OUTREACH**

OVR continued personal contacts with police officials across the state this year. Taylor Winston also provided training to recruits and officers at the Interior Academy in Fairbanks and to new recruits at the Anchorage Police Department academy.

Mr. Young continued to engage directly with law enforcement personnel throughout Alaska and established an extensive network of contacts. He is diligent in developing and maintaining amiable, professional relationships. 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.



## **NEW LAWS AFFECTING VICTIMS**

This section cover laws that went into effect during the reporting year July 1, 2018 to June 30, 2019.

### **House Bill 12 – Protective Orders**

This bill which has become law allows for protective orders to be valid now for one year instead of six months and adds limitations as to when the court can deny a protective order. The law also provides a period of time petitioners can ask the court for an extension of the protective order. This time period covers 30 days before and up to 60 days after the expiration of the expiration of the most recent order.

### **House Bill 14 – Assault, Dangerous Instrument and Sexual Contact Definitions, Victim Notification**

This bill makes a variety of changes in the law that pertain to crime victims. First, Assault in the First Degree has been expanded to include as part of this crime the act of knowingly causing a person to become unconscious by use of a dangerous instrument. Second, the definition of dangerous instrument was expanded to include not only hands or other objects but also “other body parts” that when used to impede normal breathing or circulation when pressure is applied to the neck or throat or when the nose or mouth is obstructed. Third, the definition of sexual contact was expanded to include the defendant’s knowingly causing the victim to come in contact with semen. Fourth, the bill puts additional limitations on when offender’s can get credit against their jail sentence for time in a residential treatment program and/or electronic monitoring. Fifth, an additional statutory aggravator has been added which will allow a judge to impose a sentence above the presumptive range if the defendant knowingly caused the victim to become unconscious by means of a dangerous instrument. Sixth, in felony, sex offense or domestic violence cases, the law now requires prosecutors to confer with the victim or the victim's legal guardian concerning a proposed plea agreement, before entering into the plea agreement, to ask the victim or the victim's legal guardian whether the victim is in agreement with the proposed plea agreement. The prosecutor shall record whether the victim or guardian is in agreement with the proposed plea agreement.

### **House Bill 31 – Police Training in Domestic Violence, Sexual Assault Investigation and Handling of Sexual Assault Exam Kits**

The Legislature passed a law requiring police officers to have at least 12 hours of instruction regarding sexual assault. The law also addresses protocols to be used for various types of sexual assault reports a victim could choose to make and how sexual assault kits should be handled. This law became effective July 1, 2018.

## **House Bill 214 – Teen Dating Violence Programs**

This law requires the Department of Education and school districts to develop and approve a program relating to teen dating violence, abuse awareness and prevention for grade 7 through 12. This program will be known as Bree Moore Teen Dating Violence Awareness and Prevention. It also designed February as Teen Dating Awareness and Prevention Month.

## **House Bill 216 –Restitution & the Restorative Justice Account**

A description of this bill is described in detail in the section below

## **House Bill 312 - Changes to Senate Bill (SB) 91**

The Legislature chose to reform parts of the omnibus criminal justice reform law, known as Senate Bill (SB) 91, last session instead of repealing the law. HB 312 made some much-needed changes by addressing several problems which arose out of SB 91 (enacted in 2016) regarding releasing people from jail as they await trial. Among its many parts, SB 91 created a formula-based matrix for judges to use when deciding whether to release someone from jail before their trial. That matrix, implemented in January 2018, has been rightly criticized by the public, law enforcement, and some legislators for its inflexibility. It has been nicknamed “catch and release” because defendants can be released from prison very soon after being charged with a crime. This bill allows judges to consider out-of-state criminal history in that matrix and toughens the approach for defendants charged with vehicle theft and other felonies. The law addressed other issues too by increasing the financial penalties for those convicted of crimes, allowing the Attorney General to criminalize designer drugs on an emergency basis, and stiffening the penalty for assaulting a medical worker.

## **RESTORATIVE JUSTICE ACCOUNT**

House Bill 216 went into effect January 1, 2019. The bill, now law, allowed for the establishment of the Restorative Justice Account (RJA) which, if funded, can provide money to crime victims who have received a restitution order from the court but who have not been paid by the defendant. Under Alaska law some offenders, such as those incarcerated, are not entitled to a permanent fund dividend. The amount of “offender PFD money” varies from year to year but generally has been approximately \$12 million in recent years. In the past this money was meant to fund various victim-related services, but in more recent years the bulk of it has been used to cover offenders’ medical care. The idea behind the RJA is that some of the offender PFD money would be appropriated to the RJA by the legislature each year so victims who have not been paid by the offender could have their restitution order, up to a maximum of \$10,000, paid from the RJA to better protect their rights as a crime victim and to alleviate the financial harm caused by the offender more quickly. Payments to the victim from the RJA will not erase the offenders’ restitution obligations. Offenders will still be required by law to reimburse the state for payments to victims. According to testimony, the amount of unpaid restitution ordered to be paid by the offenders to crime victims has grown to the neighborhood of \$20 million.

House Bill 216 establishes OVR as the agency to assist victims who have unpaid criminal restitution orders and help facilitate payment to them from the RJA. Crime victims who have unpaid restitution orders can contact OVR and complete an intake form to request restitution. Once verified, OVR will process the request and authorize payment from the any RJA funds available for crime victim restitution. The oldest restitution orders of victims requesting RJA assistance will be fulfilled first from any available funds, up to but limited to no more than \$10,000 regardless of the total amount of court ordered restitution. Given appropriation cycles and the timing of this bill becoming law, no RJA funds will be available earlier than July 2020. Crime victims are encouraged to apply for restitution assistance, especially if at least 2 years has lapsed since restitution was ordered and no payments have been made by the defendant. To date, OVR has received 5 requests for restitution for a total eligible RJA amount of \$26,562.58

The creation of the RJA is a great step in the right direction to help protect a victim's right to restitution and ease the financial harm caused. The next major step needed for this program to help victims, is for the Legislature to appropriate adequate funds from the offender PFD money to cover all victims' requests for RJA funds.

## **MOST PREVALENT VICTIMS' RIGHTS VIOLATIONS**

The most prevalent violations of victims' rights observed across the state during the reporting year unfortunately continues to be the same as in previous years: 1) pre-trial delays allowed by the courts; 2) timely return of crime victims' property held by law enforcement; 3) lack of notice/communications by law enforcement and/or prosecutors and paralegals; and 4) difficulty of crime victims to recover restitution from offenders

### **Pre-trial Delay**

Pretrial delays continued to be the most prevalent constitutional and statutory right violation observed by OVR and complained of by crime victims. While many factors contribute to continuances in a case, and while often there is a legitimate reason for a requested continuance, the parties and courts are tolerant and accepting of continuances and it has become the way of doing business. The worst violator of this victim right is the Anchorage Court in the Third Judicial District. While individual practitioners, such as defense attorneys and prosecutors can request continuances, it is up to the judge to control the docket, to adhere to standing court orders, to follow the law and to protect victims' rights as well as defendants' rights. Generally, what is seen is more of a rubber stamping of such requests.

The issue of continuances is a concern for victims, but also for the court system, the prosecution, the defense, the offenders and the Department of Corrections. Resources are limited and inefficiency only aggravate the situation. Pre-trial delay not only affects victims, it affects every agency and person associated with the criminal justice system. Reducing pendency time will improve efficiency, reduce costs, and better protect justice because justice delayed is justice denied.

OVR has raised this issue continually with criminal justice agencies for more than six years. While the Anchorage Court put two new procedures in place that should have helped the pre-trial delay issues, neither procedure is being adhered to uniformly and consistently as designed by

practitioners or judges. The failure to lessen pre-trial delay often has more to do with the specific judge and attorneys assigned in those cases than a failure of the procedures themselves.

### **Timely Return of Property to Crime Victims**

A surprising amount of crime victims' property is being held by law enforcement agencies and not being returned to victims in a timely fashion. There are several causes of this problem. Police keep property in case it is needed as evidence in the case. They do not want or cannot release the items without the prosecutor's and/or court's agreement. Prosecutors are often hesitant to release the property for fear the courts will hold it against the state at trial time. The system is set up to protect the defendant's rights but at the same time it denies a victim their right to their property which was seized or held for a governmental interest without being compensate for that property the government/court will not release. Crime victims have a constitutional right to their private property. The pre-trial delay issue exacerbates the harm caused to victims because agencies won't return their property to them quickly. So much of what is held in evidence can be preserved in other ways that holding the entire item such as by photographing it, documenting it, swabbing it for biological evidence and even giving the defense a window to view it. These actions are often not taken because it is easier to seize and keep for the criminal justice system interests than return it to the owner in an expedient manner. Not only was the victim victimized by the criminal's actions but now is also victimized by the system by denying the victim their property. Systematic changes would not only return property to victims quicker but relieve law enforcement of the thousands and thousands of dollars of storage, maintenance and personnel costs associated with holding those items.

OVR can assist victims who request OVR to have their property returned. If the persons cannot or will not release the items, OVR can request a hearing before a judge to seek an order for a return of the property.

### **Victim Notification and Contact**

Under Alaska law, police officers and prosecutors are required to provide notice orally and in writing to crime victims about OVR. This means that police and prosecutors must give/tell OVR's contact information to ALL felony crime victims, all victims of A-level misdemeanor crimes against a person and victims of all A-level domestic violence crimes. Compliance is difficult to track. OVR has two measures by which to gage compliance: 1) how many complaints are received from victims that they were not told about OVR, and 2) how very few requests OVR receives from law enforcement agencies for our written materials to provide to victims, especially consider the 1000's of people victimized by crime every year. Prosecutors, also by law have duties to victims. Generally speaking, prosecutors and their paralegals do a fairly good job of meeting their legal obligations to crime victims but there is certainly room for improvement. This failure to provide notification, particularly in the early stages of a case, prevents victims from getting help they need and often leads to further victim rights violations.

Besides notification, another related complaint is "no one is calling me back." Overall this is the most common complaint from victims about law enforcement and is an increasing complaint about prosecutors. An equally common complaint about prosecutors is that the prosecutors are not notifying victims about plea agreement offers. Some victims never learn about the plea deal, others only learn about the plea offer after the prosecutor extended it to the defense. This eviscerates any

input the victims they would like to have had and their right to be treated with dignity, fairness and respect.

### **Crime Victim Restitution**

Crime victims have a constitutional right to restitution from convicted defendants. Sadly, unlike other states, there are few mechanisms within Alaska law to enforce criminal restitution judgments against defendants. Basically, the judgment is somewhat like a toothless tiger because what few laws there are aren't enforced, or changes to policy and laws which could help are a low priority for those in a position to change them. The RJA is a great step in the right direction to help crime victims recoup some of the restitution they are due. OVR is committed to working with other criminal justice agencies and the Legislature to help develop policies or statutes which would result in more restitution payment compliance by defendants.

## **GOALS AND REFLECTIONS**

### **REFLECTIONS**

Crimes committed on victims can, and most often do, have profound effects on their life and their family's lives. It is important to understand and remember that every time a crime is committed against an Alaskan, the fabric of those victims' lives is forever changed, as well as the community. Like a rock thrown in a pond, the ripple effects extend far beyond the victim, and ultimately ripples throughout the entire community in both pronounced and subtle ways.

Crime has continued to plague our communities. Alaska is one of the most dangerous states in the country per capita. Unfortunately, the state continues to rank high in the number of overall violent crimes, domestic violence crimes and sexual offense crimes. Properties crimes have continued to grow with more and more homes burglarized, vehicles stolen and thefts from businesses.

Drug and property crimes are often viewed by lawmakers, policymakers, and even judges as non-violent offenses and often as victim-less crimes, both of which are realistically untrue. Drug crimes are closely linked with property crimes and every property crime has a victim. Drug crimes and property crimes don't happen in a vacuum. Drug crimes and property crimes are often a linked to violent crimes of assault, robbery and homicide. It is known that burglaries are often a pre-cursor crime to sexual assaults, meaning many sex offenders committed burglaries before they later committed sex offenses. Ask a person whose home has been burglarized how they feel. It is a very violative crime and can have as equally profound effects on the victim as an assault crime. To continue to view drug, weapons, and property offenders as low-level, non-violent, and often victimless offenders will very likely result in our laws not accurately reflecting what happens on the streets and therefore, more and more Alaskans will be victimized. With the increase in crime, the consequence is more and more people are victims of crime.

As crime grows, residents lose more and more freedoms. Most important is the freedom to feel safe and secure whether at home or out in the community. But other smaller freedoms are taken from us too because of criminal activity. Stores lock their doors to limit access points or have to run anti-theft cables through blue jeans in hopes of curtailing shoplifting. Children

encounter used syringes as they play along the edge of streams in their neighborhood. Citizens have had to arm their homes with surveillance equipment. The adjustments that are having to be made day in and day out in our community to deal with crime and to try to prevent being victimized are countless. New laws have been signed in the reporting year and in recent weeks which, by and large, repealed SB 91. Hopefully these changes will help stem the crime wave for all Alaskans' sakes.

## **GOALS**

Our primary mission is to serve individual crime victims, and to educate victims and agencies alike. While every year there are positive strides forward in the area of crime victims' rights, every year brings new challenges. OVR continues to see lack of acknowledgement and/or understanding about victims' rights in particular by those associated with the criminal justice system. Victims are affected by failures at every level of the system.

OVR goals in the coming year is to provide more trainings to law enforcement agencies, prosecutors, the court system, and government agencies that interface with crime victims. OVR however wants to provide more education to those outside government in hopes of not only letting people know about OVR and the help we can provide but in hopes of empowering victims to have a voice in the system and in hopes of affecting change in a system that still fails victims on many levels. OVR will conduct more formal systemic investigations in the coming year to address the most prevalent crime victims' rights violations.