



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

July 27, 2020

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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 the Alaska Office of Victims' Rights 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 13-year career as an assistant district attorney, she served 2 years in the Bethel DA's office and 11 years in the Anchorage DA's Office, where she supervised the Special Assaults Unit for 6 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.

Megan K. Hiser, Victims' Rights Attorney

Ms. Hiser has been a staff attorney at the Alaska Office of Victims' Rights since September 2019. Her family moved to Alaska when she was 4 years old. She graduated from the University of Alaska, Anchorage in 2011 with a Bachelor of Arts in Political Science. Throughout her undergraduate years, she worked intermittently for the Alaska State Legislature. After graduating from UAA, she was a Legislative Assistant in Washington, D.C. for three years with the lobbying firm of Witt O'Brien's where she worked on diverse policy issues such as energy, financial services, judiciary, and account and securities. Ms. Hiser attended law school at the University of Arkansas at Little Rock graduating with honors in 2017. During law school, she interned for the Anchorage District Attorney's Office, the Arkansas Public Defender Commission, the Arkansas Attorney General, and the law firm of Friday Eldredge and Clark. After graduation, Ms. Hiser returned to Anchorage, where she clerked for Superior Court Judge Anna Moran. Following her clerkship, she joined the Alaska Department of Law in January 2018, serving as both an Assistant District Attorney with the Anchorage District Attorney's Office and as an Assistant Attorney General with the Office of Special Prosecutions.

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.

Linnea Deisher, Legal Secretary

Ms. Deisher was born and raised in the Anchorage area. After graduating high school, 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. Ms. Deisher joined the Alaska Office of Victims' Rights in November 2017.

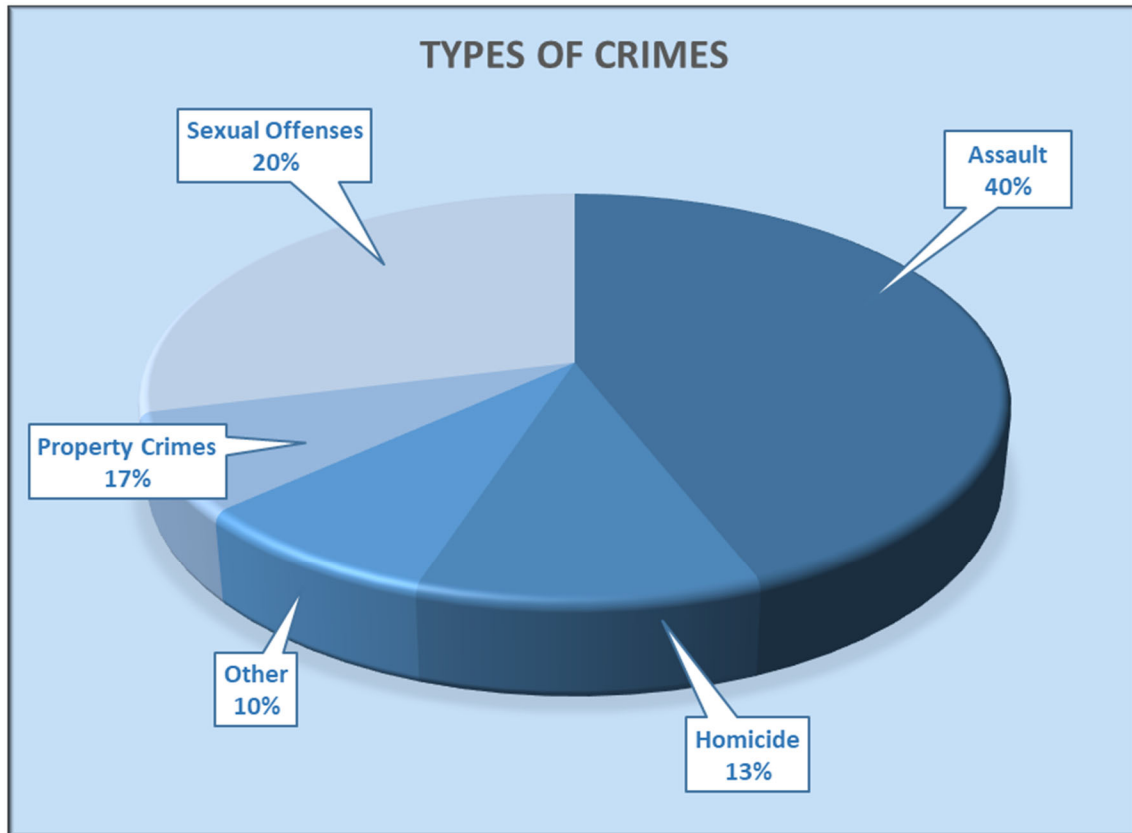
Madison Branham, Law Office Assistant

Mrs. Branham was born and raised in the Anchorage area. In 2016, she left Alaska to attend Northern Arizona University in Flagstaff, Arizona. Mrs. Branham graduated in 2019 and received her Bachelor of Arts degree in Modern Languages with a French Emphasis. After graduation, she returned to Alaska to begin her career. Mrs. Branham joined the Alaska Office of Victims' Rights in August of 2019.

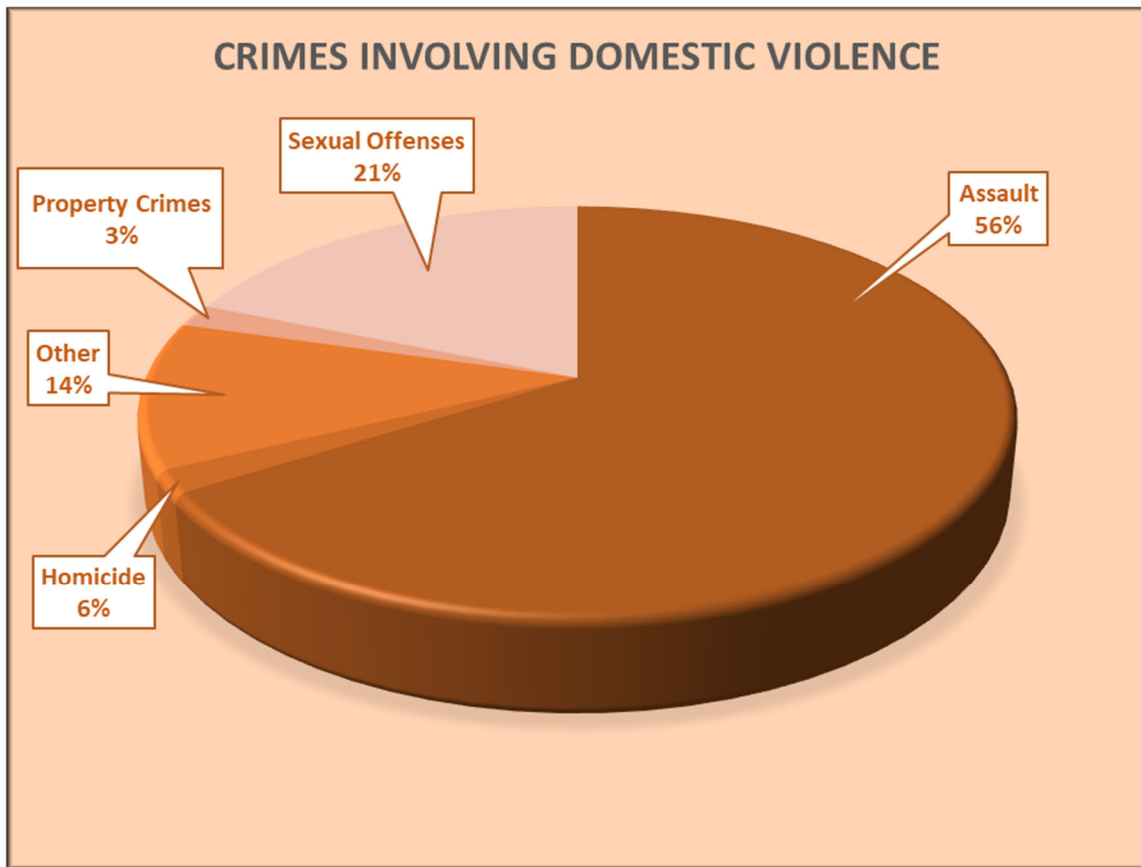
OVR'S ANNUAL CASE STATISTICS

The following information pertains to the cases opened by OVR during the current reporting period of July 1, 2019 through June 30, 2020. During this period, OVR opened 278 new cases, which required OVR's assistance on behalf of crime victims.

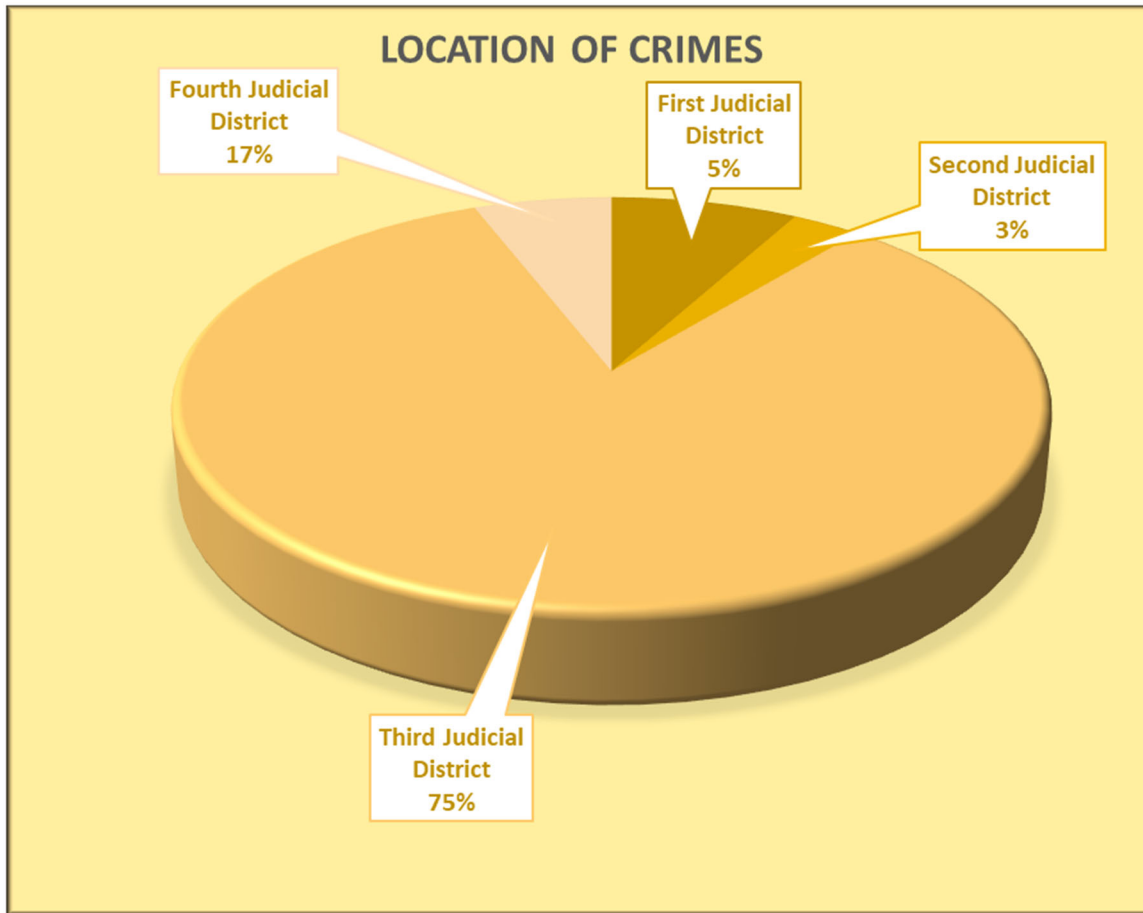
OVR opened 278 new cases between July 1, 2019 and June 30, 2020



OVR primarily assisted victims who experienced crimes against the person although property crime victim representation accounts for approximately one-fifth of OVR's caseload. 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. 40-percent of this year's new cases involved crimes of assault. OVR's representation in sexual offense cases decreased 7-percent this year to 20-percent of OVR's new cases. OVR representation of new homicide victims, however, increased this year to 13-percent. The number of property victims represented by OVR cases remained relatively the same percentage as last year.



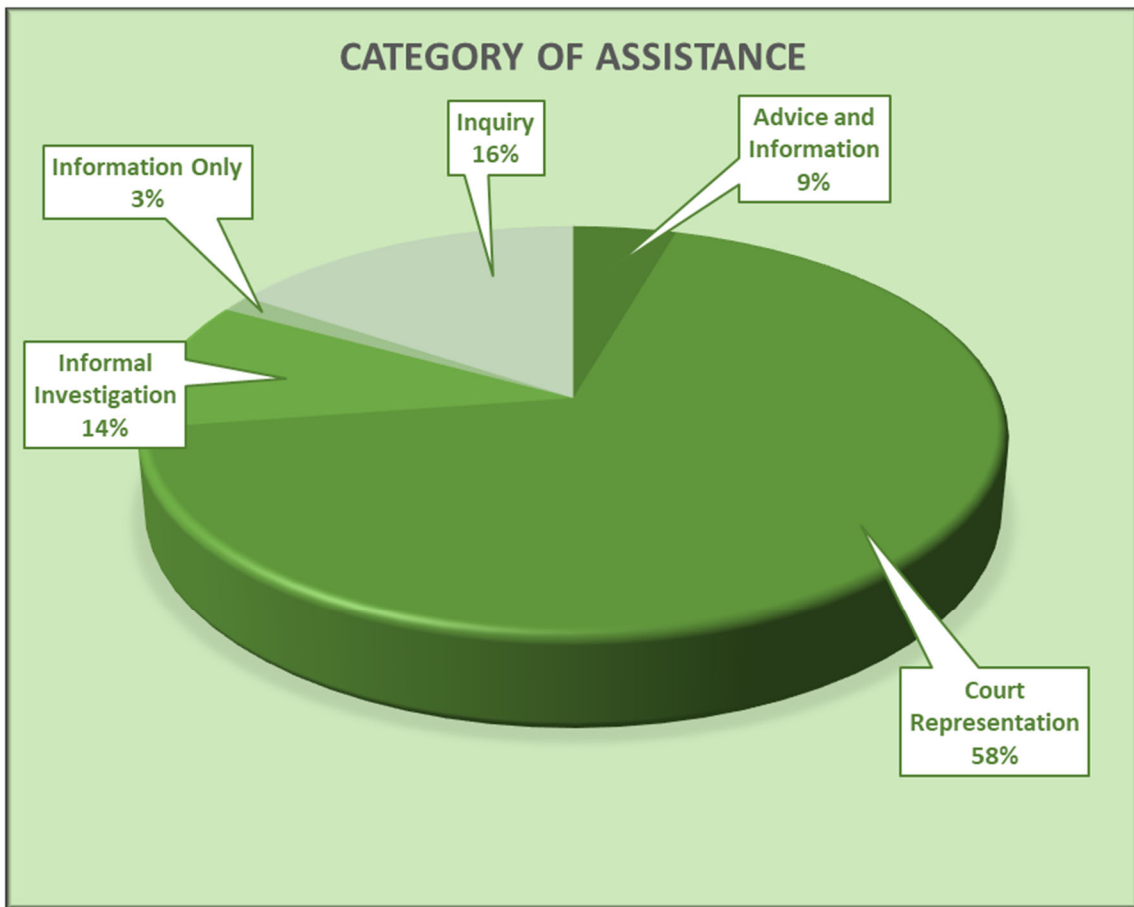
OVR continues to assist a high number of victims of domestic violence. The number of domestic violence (DV) cases opened in this reporting year, however, increased compared to the previous year. 42-percent of this year's cases involve domestic violence crimes. Within the category of DV crimes, there was some shift in the types of DV violence crimes victims suffered. Last year, 51-percent of OVR's DV cases were assault crimes, whereas this reporting year the number increased to 56-percent. OVR also saw an increase of DV-related related homicide cases from 3-percent last year to 6-percent this 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 and includes the Anchorage bowl, the Matanuska-Susitna Valley, and the Kenai Peninsula, it is no surprise that the large majority of this year's cases originated in the Third Judicial District. 75-percent of the cases opened this year originated in the Third Judicial District, which is slightly more than last year. The number of cases from the First Judicial District dropped from 7-percent last year to 5-percent this year. Case numbers from the Second and Fourth Judicial remained almost the same, accounting for 3-percent and 17-percent, respectively, of OVR's new cases.

ASSISTANCE PROVIDED TO CRIME VICTIMS

The information below summarizes the assistance provided to crime victims by OVR during the last fiscal year. Crime victims can contact OVR for assistance at any point after the crime has been reported to law enforcement and up until the offender, if convicted is released from parole and/or probation. For example, some crime victims request assistance during the law enforcement investigative stage prior to charges being filed, whereas other victims seek assistance after conviction when the case is in the parole/probation or appeal phase. Therefore, there are various ways in which OVR helps victims, which reflects their specific needs and concerns. OVR represented crime victims in court in 58-percent of this year's new cases, accounting for a 5-percent increase over last year. OVR also provides substantial informational services for Alaska crime victims by responding to general inquiries and providing case specific advice. The "inquiry" category saw a notable change this year with the number dropping from 26-percent last year to the same 17-percent of cases as in 2018. The statistics presented for this reporting year only reflect the level of assistance for cases opened during the reporting period.



Advice and Information:

Twenty-four 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:

Forty-five 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:

Thirty-eight 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 sixty 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 900 calls from the public this year seeking assistance with their concerns. Most of these calls were fielded in the first half of the fiscal year. Like many businesses and organizations, the COVID-19 pandemic seemed to affect the number of contacts with OVR. However, we continued 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. This year, our opportunities to provide and receive training were curtailed noticeably by the COVID-19 pandemic and budget constraints. The following information summarizes the trainings provided by and attended by OVR staff during the current reporting year.

<u>Date</u>	<u>OVR Trainings/Outreach Provided</u>
August 15, 2019	Anchorage District Attorney's Office, Anchorage Taylor Winston presented a training to Assistant District Attorneys and paralegals regarding victims' rights and what prosecutors should know as part of their in-house continuing education program.
October 15, 2019	2019 District Attorney/Victim witness Paralegal Conference "Leave No Victim Behind.", Girdwood Shaun Sehl was part of a panel at the annual prosecutors' conference where she presented on the common misconceptions held by victims and prosecutors alike regarding victim's rights and OVR services; the surprising ways the OVR can be of assistance to prosecutors, victim-witness coordinators and paralegals, and OVR's ultimate goal is that the rights of each and every crime victim be observed and upheld by the criminal justice process without need for OVR representation.
November 21, 2019	The Bartlett Club, Anchorage Taylor Winston presented "Rights Victims Have: What the Office of Victims' Right Is and How It Helps Victims" to The Bartlett Club's Forum, which provides information and discussion on issues of local, state, and national importance.
November 26, 2019	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.

February 25, 2020

Alaskan Prospectors Society, Anchorage

Taylor Winston presented to this community group, founded in 1944 to provide group opportunities for members to see and know Alaska. She provided information about the rights Alaska crime victims have, how they can exercise their rights and how OVR can help protect their rights.

May 27, 2020

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.

OVR Trainings Attended

September 3, 2019

Alaska Lawyers Chapter of the Federalist Society, "Why Separation of Powers Matters"

Kathy Hansen and Shaun Sehl attended this presentation in Anchorage. The presentation focused on the role of the courts in checking the legislative and executive branches, whether the judicial branch can usurp the power of the executive or legislative branches, and how the legislative and executive branches could or should respond.

September 27, 2019

San Francisco DA's Office Victim Services Division, webinar

Taylor Winston attended this webinar to learn how the SFDA Victim Services Division yearly helps more than 8,500 crime victims mitigate their trauma, navigate the criminal justice system and rebuild their lives.

December 17, 2019

National Crime Victim Law Institute "Motions to Quash Pretrial Subpoenas for Victims' Records:"

Shaun Sehl attended this national online training which discussed the common grounds raised in support of defendants' pretrial "discovery" of victim records, reviewed a checklist of legal arguments that may be asserted in victims' motions to quash, and provided practice pointers for victims' attorneys.

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 Victims' Rights and Services work group and the Youth Justice work group of the Alaska Criminal Justice Commission (ACJC) as well as the Criminal Justice Working Group's (CJWG) Efficiencies and Prevention-Retention Committee. The ACJC work groups are, for the most part, small groups made up of stakeholders in that area of the law which discuss issues specifically related to the focus of the work group and what may be done to remedy the issue which may be forwarded as a recommendation to the ACJC. 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 in these work groups 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 bills that were signed into law by Governor Dunleavy during the reporting year July 1, 2019 to June 30, 2020. There were two major bills signed into law, House Bills (HB) 14 and 49, which made positive changes for victims in the areas of criminal law and victims' rights. While these pieces of legislation made numerous changes, below are the highlights of these new laws which will impact victims by 1) broadening the types of acts considered "criminal," 2) affecting the sentences defendants will serve and 3) enhancing crime victims' rights in the criminal justice process.

HB 14 was signed into law in July 2019. This bill made a number of positive changes to the criminal statutes. Highlights of HB 14 include:

Victims' Rights

If a victim of a felony crime, a sex offense, or a DV crime requests, the prosecutor must make a reasonable effort to confer with the victim or the victim's legal guardian about a proposed plea agreement, before entering into the plea agreement, in order to ask the victim/legal guardian whether they are in agreement with the proposal. The prosecutor must record whether the victim/legal guardian is in agreement with the proposed plea agreement.

The courts can reschedule a hearing if it is needed to consider a plea agreement and allow additional time to comply with the victim notification requirements.

Changes to the crimes of Assault and Harassment in the First Degree and definitions associated with these crimes.

Assault in the First Degree was broadened to include knowingly causing a person to become unconscious by means of a dangerous instrument as a crime. In conjunction with this amendment, the definition of dangerous instrument was broadened to include other body parts beyond hands, when used to impede normal breathing or circulation of blood by applying pressure on the throat or neck or obstructing the nose or mouth.

Harassment in the First Degree was broadened to make it a crime to have offensive physical contact with a person by using human or animal blood, mucus, saliva, semen, urine, vomitus, or feces to make that contact. Along the same lines, the definition of sexual contact was broadened to include knowingly causing the victim to come into contact with semen.

Sentencing

Jail credit towards a defendant's sentence for time he/she spent on electronic monitoring (EM) pre-conviction, has been eliminated, unless the defendant was on EM while participating in a residential treatment program for crimes such as any felony crimes against a person; DV crimes; drug offenses involving the delivery of drugs to someone under 19 years of age; burglary of a residence, or arson in the first degree.

Also, in July 2019, the Governor signed into law HB 49. It was a comprehensive bill which rolls back many of the changes made by the failed SB 91. A few of the highlights of HB 49 include:

Victims' Rights

The prosecutor must notify a sex offense victim or DV victim if, before trial, the offender is discharged from a treatment program for noncompliance. Through the established automated victim notification system, the Department of Corrections must notify a sex offense victim or a DV victim about the option to request a protective order and provide contact information for state victim resources, including the Council on Domestic Violence and Sexual Assault, the Alaska Network on Domestic Violence and Sexual Assault, the Office of Victims' Rights, and the Violent Crimes Compensation Board. This notification must occur when the offender of the victim is released from jail.

Reasonable efforts shall be made within 2 weeks after the testing of a sexual assault examination kit is completed to notify the crime victim that the kit has been tested.

Marriage eliminated as a defense to certain sexual assault crimes

The defense of marriage for certain sex crimes was eliminated in HB 49. Previously, a husband/wife could legally engage in a sexual act with the spouse when the spouse was unaware of the act or incapacitated. The change affects Sexual Assault in the Second and Third Degrees.

Sexual Assault Examination Kits

The law now requires that sexual assault examination kits must be sent to the lab by the law enforcement agency within 30 days of collection and reasonable efforts shall be made within 2 weeks after testing is completed to notify the crime victim that examination kit has been tested.

Parole and Probation

Defendants cannot receive a "good time" deduction for time spent in a treatment program, a private residence or on electronic monitoring.

Defendants convicted of Murder in the First Degree and Murder in the Second Degree are not eligible for a "good time" deduction from their sentence.

Parolees cannot earn compliance credits, which can shorten the length of time a judge sentenced them to be on probation, if the parolee is on parole for an unclassified felony; a sex offense; a felony crime against a person under AS 11.41; or a DV crime.

Sentencing

Sentencing ranges increased for all felony crimes. The current ranges roll back the changes of SB 91 and restore previously sentencing ranges.

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) pretrial 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. Sadly, these crime victims' rights continue to be the most prevalent violations this year.

Pretrial Delay

Pretrial delay has been and still is 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. Pretrial 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 7 years. While the Anchorage Court put two new procedures in place that should have helped the pretrial delay issues, neither procedure is being adhered to uniformly and consistently, as designed by practitioners or judges. The failure to lessen pretrial delay often has more to do with the specific judge and attorneys assigned in those cases than a failure of the procedures themselves.

The COVID-19 pandemic has only intensified the pretrial delay situation. In mid-March 2020, the court system discontinued trials across the state. As of the writing of this report, no trials have been held. The court system will not hold any trials until at least September 2020 and maybe beyond. When trials resume the courts plan to do a slow "roll-out," meaning that it wants to begin with a few short trials to see how jurors, witnesses, attorneys, defendants, court personnel and security can be accommodated to ensure not only the proper administration of justice but also to protect the participants' health and safety. This six-month-plus hiatus from trials suspended the victims' right to a timely disposition and has only worsened the backlog, which will further delay the victims' opportunity to have closure.

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 compensated for that property the government/court will not release. Crime victims have a constitutional right to their private property. The pretrial 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 without 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 has the victim been victimized by the criminal's actions but now has also been victimized by the system by denying the victim their property. Systematic changes would not only return property to victims quicker but would relieve law enforcement of the thousands upon thousands of dollars required to pay for the 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 misdemeanor domestic violence crimes. Compliance is difficult to track. OVR has two measures by which to gauge 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 thousands 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 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.

REFLECTIONS AND GOALS

GOOD NEWS

While many of the problems victims encounter with the criminal justice system persist, some good news emerged. Some victims who have been waiting for restitution from offenders, a few of whom have waited about 20 years, will be made whole this reporting year through the Restorative Justice Account (RJA). The victims receiving RJA funds applied to OVR for RJA restitution assistance and happily, it can be reported that some of those applications were made whole this reporting year. It is hoped that the Legislature will appropriate additional funds for this purpose in the years to come, and that by victims having the restitution orders, unpaid by their offenders, met by the Restorative Justice Account funds their faith in the system has been at least partially restored.

All of our lives have been touched by the COVID-19 pandemic; sadly, some more profoundly than others. While it is not easy to find a silver lining in these dark times, one benefit that has emerged for victims is greater access to court proceedings. Prior to COVID-19, it was difficult for victims to be telephonic for hearings. Even OVR attorneys had difficulty connecting. Problems OVR and victims alike encountered were, for example, the court would not open the 800-number call-in line, or the courts failed to call victims who had requested a call. By the court having to conduct hearings telephonically over the last 3-4 months, the lines have been open, and the courts have been transparent about what the call-in numbers and codes are, going even as far as posting the information on the court system's website. OVR sincerely hopes that the court will continue to maintain open lines and transparency of the numbers so more victims can participate in the process and have the consistent opportunity to hear first-hand what is going on in the case in which they are victims.

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 continues 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. Property 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 victimless 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 becoming 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 must run anti-theft cables through merchandise 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.

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's primary and long-standing goal is to continue to raise awareness of crime victims' rights whether it be for victims themselves, advocates working with victims, prosecutors and paralegals who need to advise victims or judges who should be as protective of victims' rights as they are of defendants' rights. Over the course of the new fiscal year, OVR would like to provide more trainings to small and medium-sized law enforcement agencies, rural prosecutors, and government agencies that interface with crime victims. Currently, the COVID-19 pandemic presents some obstacles given the restrictions on travel and group gatherings. OVR hopes to identify more non-governmental organizations to provide education to those outside government to empower victims to have a voice in the system.

In addition to this mission, OVR hopes to ignite high-level discussions about the return of property to crime victims. Thousands of items owned by victims sit in police evidence storage. While their possessions are locked up in police custody, victims are deprived of their property. Sometimes they are forced to spend more money to replace those items, and often they must do without because they don't have the money to replace the items. This additionally injures victims beyond the initial trauma caused by the criminal, but this time it is the system, often in conjunction with the defendant, causing the additional harm.

The amount of property retained by law enforcement agencies has exploded as crime grows and the back log of cases grows. Storing thousands and thousands of items incurs significant costs for state and local law enforcement agencies for the space and manpower to manage those items. The hurdle to the return of these items is not the police. They usually would like to return the property to the rightful owners but the criminal justice system, whether the prosecutor, defendant or court, blocks the return. OVR has found that in most cases the prosecutors are willing to return items when not needed for trial, but that defendants oppose, which results in the courts often denying the release. If cases only pended 4- 6 months, it might be more bearable and would not be as such of a burden on victims. However, the courts allowing multi-year continuances in cases re-victimizes the victims and wastes law enforcement resources that can be better spent policing the community.