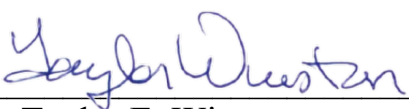




# ALASKA OFFICE OF VICTIMS' RIGHTS ANNUAL REPORT TO THE ALASKA LEGISLATURE

**July 28, 2022**

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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 the OVR Act, a proceeding of or decision made by the Victims' Advocate or her 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 her 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 her 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 seven legal professionals comprised of the following individuals who are working at OVR or worked at OVR during some portion of the reporting year.

### ***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 position with the Office of Victims' Rights. She retired from OVR in September 2021.

***Angela G. Garay, Victims' Rights Attorney***

Ms. Garay joined the Alaska Office of Victims' Rights as a staff attorney in September 2021. Ms. Garay was raised in northern California and came to Alaska in 2004 to work as an Assistant District Attorney in Kenai. She graduated from California State University, Chico with a bachelor's degree in Social Science in 1990 and graduated *magna cum laude* from Western Seminary in Portland, Oregon with a master's degree in Intercultural Studies in 1998. In 2004, Ms. Garay graduated from Lewis and Clark Law School with a Juris Doctorate and a certificate in Criminal Law and Procedure. She served as an Assistant District Attorney in the Kenai and Kotzebue District Attorney's offices, prosecuting domestic violence and sexual assault cases. In 2013, Ms. Garay relocated to Washington state and served as the Tribal Prosecutor for the Lummi Nation for three years. Ms. Garay returned to Alaska in 2017 to work as a municipal prosecutor in the domestic violence unit at the Anchorage Municipal Prosecutor's Office. Ms. Garay also worked as an Assistant Public Advocate representing parents and children in Children in Need of Aid cases, juveniles in delinquency cases, and respondents in guardianship cases in 2020. Ms. Garay volunteers as a Board member on the Council on Domestic Violence and Sexual Assault, and currently serves as chairman.

***Megan K. Hiser, Victims' Rights Attorney***

Ms. Hiser joined the Alaska Office of Victims' Rights in September 2019. 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. Ms. Hiser left OVR in January 2022 to work as a Guardian Ad Litem.

***Kelly J. Lawson, Victims' Rights Attorney***

Ms. Lawson was born in Anchorage but grew up splitting her time between Cantwell and Anchor Point. She attended the University of Alaska Fairbanks, earning a Justice Degree in 1999. She then attended the University of Montana School of Law, graduating with her law degree in

2002. Ms. Lawson completed a clerkship for the Honorable Dan Hensley in the Anchorage Superior Court from 2002-2003. She was hired in 2003 by the Fairbanks District Attorney's Office where she served as an Assistant District Attorney until 2006. After a brief time away from prosecuting to take care of family, Ms. Lawson returned to the District Attorney's Office, this time in Kenai, in 2007. She remained at the Kenai District Attorney's Office until September of 2018 when she transferred to the Civil Division to serve as an Assistant Attorney General in the Child in Need of Aid Unit in Kenai until February of 2020. After another short break, Ms. Lawson returned to the Kenai District Attorney's Office in May of 2020 where she worked as the Deputy District Attorney, focusing on sexual offenses against adults and children. Ms. Lawson remained at the Kenai District Attorney's Office until taking her current position with the Office of Victims' Rights in April 2022.

***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. He retired from OVR in August 2021.

***Deven Cunningham, Investigator***

Mr. Cunningham joined OVR in September 2021 after Mr. Young retired. Mr. Cunningham is a retired Anchorage Police Department detective where he served for over 25 years. He worked as a patrol officer, a follow-up unit investigator, and a detective in the Crimes Against Children Unit for many years before finishing his career as a detective in the Fraud Unit. Mr. Cunningham was also a polygraph examiner and taught at the police academy and to outside organizations in several different fields. Mr. Cunningham has a bachelor's degree in Criminal Justice from the University of Alaska-Anchorage.

***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 as a Law Office Assistant and several years ago was promoted to Legal Secretary.

***Cady Money, Law Office Assistant***

Mrs. Money was born and raised in Jacksonville, Florida. In 2018, she married her high school sweetheart who had joined the Army that same year. In May of 2019, they reported to

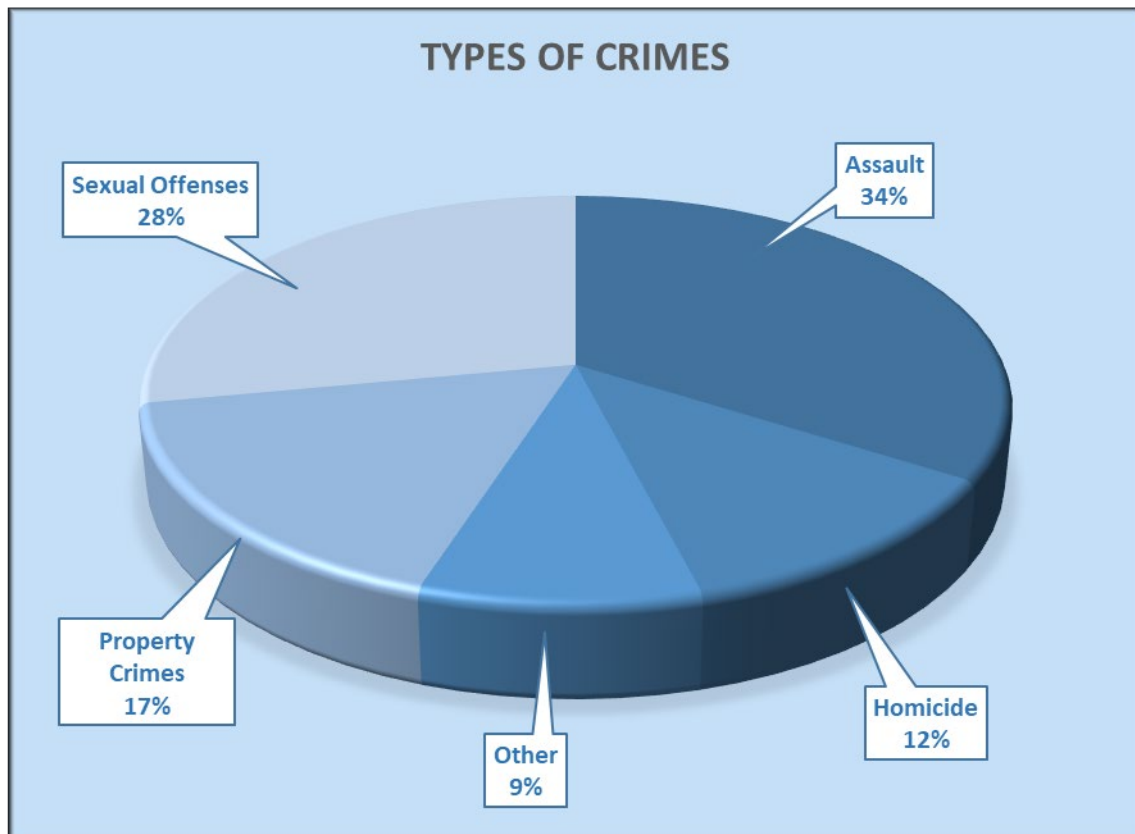


Joint-Base Elmendorf-Richardson. While residing in Alaska, Mrs. Money completed her Bachelor of Arts degree in Criminal Justice from the University of North Florida. After completing an internship at the Alaska Office of Victims' Rights during the summer of 2021, she then joined the Alaska Office of Victims' Rights in August of 2021. Due to a military reassignment, Mrs. Money left OVR in April 2022 to move out of state.

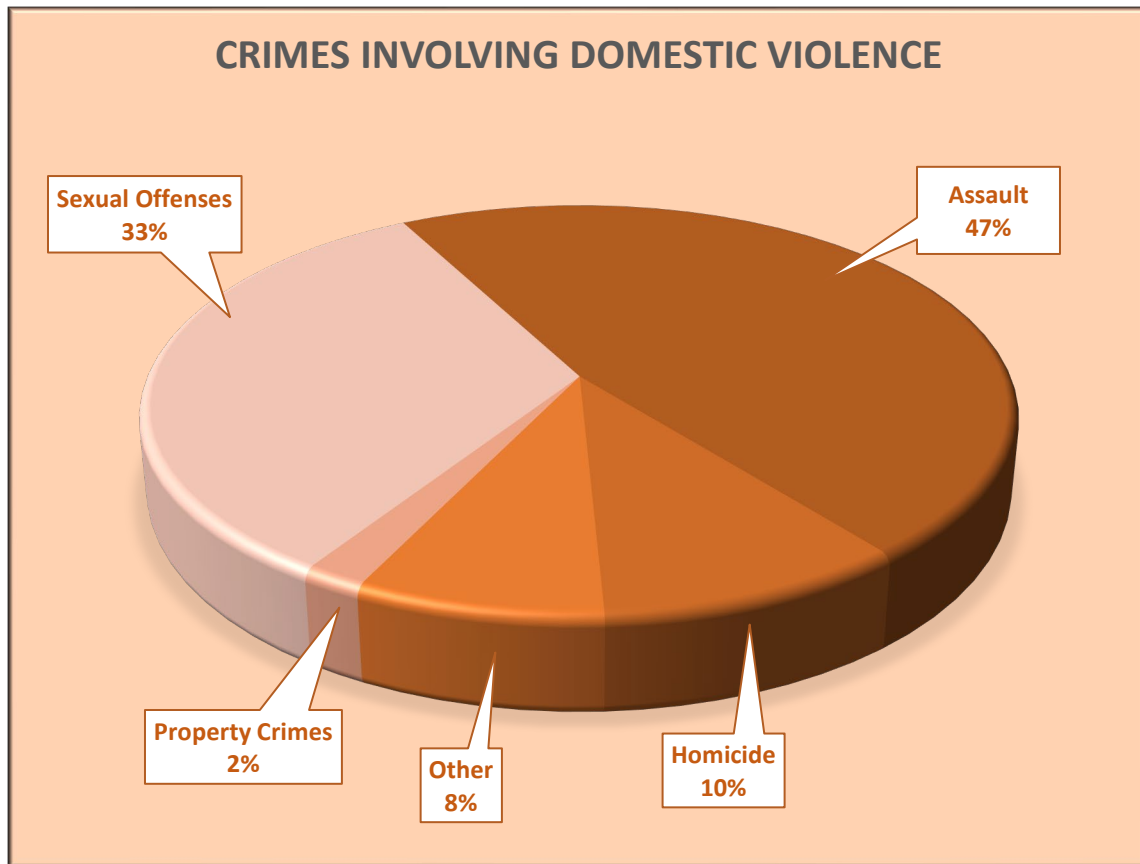
## OVR'S ANNUAL CASE STATISTICS

The following information pertains to the cases opened by OVR during the current reporting period of July 1, 2021, through June 30, 2022. During this period, OVR opened 204 new cases which required OVR's assistance on behalf of crime victims.

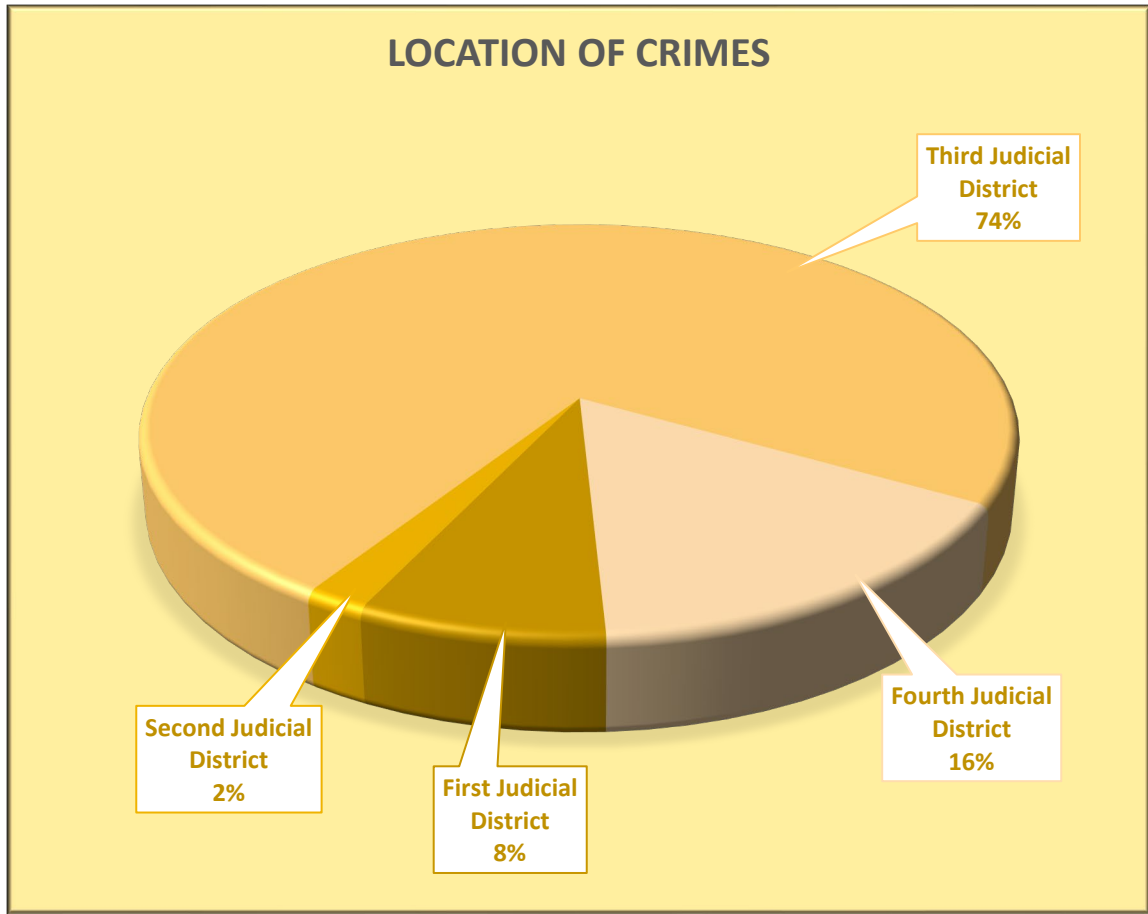
**OVR opened 204 new cases between July 1, 2021, and June 30, 2022**



OVR primarily assisted victims who experienced crimes against the person, with 74% of our new cases following this category. Crimes against a person include crimes such as homicide, kidnapping, assault, robbery, and sexual offenses. Property crimes include crimes such as burglary, vehicle theft, theft, forgery, and embezzlement. Thirty-four percent of this year's new cases involved crimes of assault. OVR's representation in sexual offense cases decreased 3% this year to 28% of OVR's new cases. OVR representation of new homicide victims, however, remained the same as last year at 12%. The number of cases involving property victims represented by OVR increased from 11% last year to 17% this 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 increased by 2% compared to the previous year. Forty-six percent of this year's cases involve domestic violence crimes. Within the category of DV crimes, there was minimal shift in the types of DV crimes victims suffered. Last year, 46% of OVR's DV cases were assault crimes, whereas this reporting year the number increased slightly to 47%. OVR also saw a decrease of DV-related sexual offense cases from 34% last year to 33% this year.

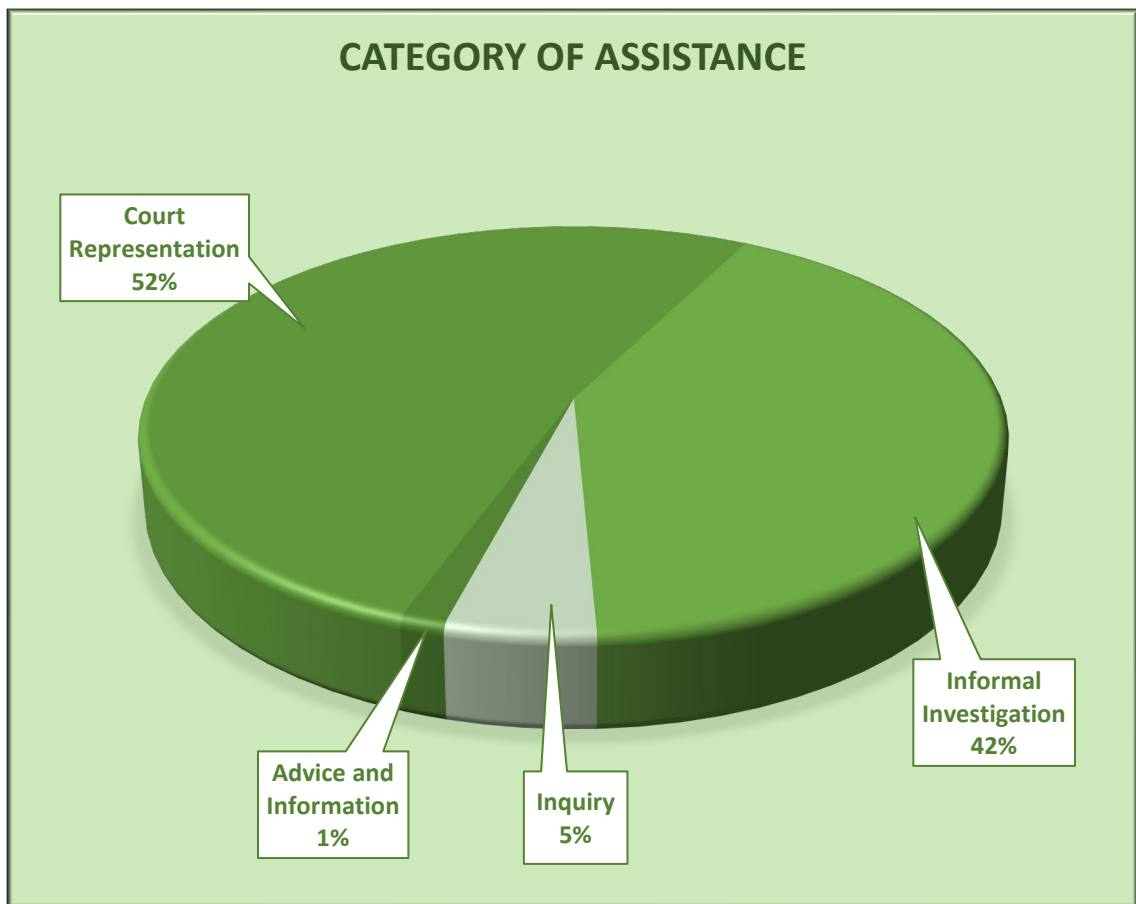


The majority of OVR's new cases continue to originate from the Third Judicial District. Given that this area comprises the most populated region of the state and includes the Anchorage bowl, the Matanuska-Susitna Valley, and the Kenai Peninsula, it is no surprise that 74% of this year's cases originated from the Third Judicial District, which is slightly more compared to last year. The number of cases from the First Judicial District decreased from 10% last year to 8% this year. Case numbers from the Second and Fourth Judicial Districts remained almost the same, accounting for 2% and 16%, 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 52% of this year's new cases, accounting for a 7% decrease from last year. OVR also provided 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 15% last year to 5% this year. The statistics presented for this reporting year only reflect the level of assistance for cases opened during the reporting period.



**Advice and Information:**

Three 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:**

Ten crime victims came to OVR with particular issues or concerns regarding active criminal investigations or prosecutions. These victims filed formal written requests with OVR. These cases required OVR to make some preliminary inquiries and/or to seek some documentary evidence from justice agencies. These cases required limited to moderate involvement by OVR attorneys or staff. These cases resolved informally due in part to the cooperative relationship developed between OVR, the justice agencies, and the client involved.

**Informal Investigation:**

Eighty-five crime victims came to OVR with significant problems or concerns regarding active criminal cases during the current reporting period. These victims 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 six 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 approximately 600 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 attorneys and 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 attorneys also provide 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 again by the COVID-19 pandemic and budget constraints. The following information summarizes the trainings provided by and attended by OVR attorneys and staff during the current reporting year.

<b><u>Date</u></b>	<b><u>OVR Trainings/Outreach Provided</u></b>
November 18, 2021	<b>Sexual Assault Response Team Training, Anchorage</b>  Taylor Winston provided training to law enforcement, prosecutors, paralegals, and advocates attending a multi-day SART training. OVR's portion focused on victims' rights, what services OVR provides victims, our role, what complaints victims most commonly have and how to reduce or eliminate those concerns.
November 30, 2021	<b>Anchorage Police Department Academy, Anchorage</b>  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.
January 13, 2022	<b>Alaska Association of Paralegals, state-wide webinar</b>  Taylor Winston presented an overview of OVR and victims' rights in Alaska to paralegals around the state and how they can help victims navigate the system.
March 17, 2022	<b>Sexual Assault Response Team Training, Anchorage</b>  Taylor Winston provided training to law enforcement, prosecutors, paralegals, and advocates attending a multi-day SART training. OVR's portion focused on victims' rights, what services OVR provides victims, our role, what complaints victims most commonly have and how to reduce or eliminate those concerns.
June 7, 2022	<b>Anchorage Police Department Academy, Anchorage</b>  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**

August 25, 2021

#### **Legislative Ethics for Nonpartisan Legislative Staff**

Cady Money attended this legislative ethics and equal employment opportunity training for nonpartisan legislative staff.

September 15, 2022

#### **Legislative Ethics for Nonpartisan Legislative Staff**

Deven Cunningham attended this legislative ethics and equal employment opportunity training for nonpartisan legislative staff.

September 22, 2021

#### **Seattle Victim Assistance Program via Zoom**

Kathy Hansen and Linnea Deisher attended this training on behalf of OVR, which included discussions on how the Victim Assistance Program responds to victims' needs in a wide range of federal crimes.

September 22, 2021

#### **Legislative Ethics for Nonpartisan Legislative Staff**

Angela Garay attended this legislative ethics and equal employment opportunity training for nonpartisan legislative staff.

December 6, 2021

#### **Alaska Bar Association CLE, "Ethics Tonight"**

Angela Garay attended this legal ethics webinar presentation which included a discussion of ethical obligations of attorneys.

March 25, 2022

#### **Alaska Bar Association CLE, "Ethics Tonight"**

Kathy Hansen attended this legal ethics webinar presentation which included a discussion of ethical obligations of attorneys.

April 28, 2022

#### **Essential Motions for Victims' Rights Enforcement National Crime Victim Law Institute Training via Zoom**

Kelly Lawson and Angela Garay attended this training that covered the top five essential motions that can be filed in court to enforce and protect victims' rights. The training included a discussion of each type of motion, the potential right implicated, and the importance of each motion.

May 11 & 12, 2022

### **Legislative Ethics for Nonpartisan Legislative Staff**

Kelly Lawson attended this legislative ethics and equal employment opportunity training presented specifically for nonpartisan legislative staff.

May 19, 2022

### **Alaska Public Safety Information Network**

Deven Cunningham attended this training provided by the Department of Public Safety, which was designed for Terminal Agency Coordinators to learn their responsibilities and duties related to criminal justice information services.

## **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 participated in the Victims' Rights and Services workgroup of the Alaska Criminal Justice Commission (ACJC) this reporting year. While typically OVR participates also in the Criminal Justice Working Group's (CJWG) Efficiencies and Prevention-Retention Committee, the committee did not meet during the pandemic or in the few months preceding the pandemic. The ACJC workgroups 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 the work groups allows us to have input regarding crime victim issues which arise in the criminal justice system. The Victims' Rights' and Services workgroup began work late in the reporting year on an exciting project. This project was tabled during this reporting year, but hopefully will be revisited and pursued during this current reporting year. The goal is to develop short, three to five-minute videos which help educate victims about their crime victim rights, the process for criminal cases in the criminal justice system and what victim rights correspond with the different phases of a criminal case.



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. One topic discussed in the reporting year was to determine whether the criminal rules should provide a mechanism for private attorneys to represent crime victims. The committee has yet to decide whether a criminal rule change should be implemented to facilitate private attorneys' representation of crime victims.

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 the Alaska State Troopers. This initiative was completed during the reporting year.

OVR also participated in project taken on by The Anchorage Police Department which utilized a special federal program providing expert assistance to evaluate, make recommendations, and to develop a plan to reduce violent crime within its jurisdiction. As part of this process, community stakeholders, including OVR, were invited and participated in several meetings to discuss and devise a mission statement and action plan for the Anchorage Police Department going forward to help reduce violent crime in Anchorage.

### **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.

This year, OVR participated in the Alaska Missing and Murdered Indigenous Persons (MMIP) work group. This is sponsored by the U.S. Department of Justice. The state MMIP workgroup has representatives from non-profit organizations, tribal organizations, state agencies, law enforcement and federal agencies working to improve the response to MMIP and to build a network amongst the service providers to address the issue.

## **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 (DVFR) 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 and has been dormant for several years. While the Anchorage DVFR has not met, a new Statewide Domestic Violence Fatality Review Team launched in March 2021 by the commissioner of the Department of Public Safety. However, due to transitions within Department of Public Safety the team and further training have been put on hold. OVR hopes the team will reactivate in the upcoming year as OVR remains committed to the mission of DVFR teams 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. Mr. Cunningham engaged 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.

In addition, Taylor Winston provided training to new recruits at the Anchorage Police Department Academy. Ms. Hansen also participated in a project directed by The Anchorage Police Department to evaluate, make recommendations, and develop a plan to reduce violent crime within Anchorage. As part of this project, community stakeholders, including OVR, were invited to participate in several meetings to discuss and devise a mission statement and action plan for the Anchorage Police Department going forward to help reduce violent crime in Anchorage.

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

The most prevalent violations of victims' rights observed across the state during the reporting year unfortunately continue to be as previous years, however another violation has become prevalent in the Anchorage courts, particularly Anchorage Superior Court. The most prevalent victim rights' violations are 1) pretrial delays allowed by the courts; 2) the courts denying victims notice and the right to be heard; 3) timely return of crime victims' property held by law enforcement; 4) lack of notice/communications by prosecutors and paralegals; and 5) difficulty of crime victims to recover restitution from offenders. Sadly, these crime victims' rights violations persisted throughout 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 are legitimate reasons for a requested continuance, the parties and courts are too tolerant and accepting of continuances to the degree that it has become an accepted way of doing business. Pretrial delay is most prevalent in the Third Judicial District, particularly Anchorage. 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 and court rules, 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. In Anchorage it is quite common for Superior Court judges to not ask any questions when a party seeks a continuance, even one as long as 90 days. The judges don't inquire of the status of discovery, why discovery is outstanding, hold parties accountable or put firm deadlines on the parties for discovery completion or the filing of motions. The court persistently fosters long pendency of cases by its failure to act. These delays come at a considerable financial and emotional cost. These delays certainly affect whether a crime victim is treated with dignity, respect, and fairness and affect whether the victim and the community see a just criminal outcome.

The issue of continuances is a particular concern for victims as it violates their constitutional right to a timely disposition. It also negatively impacts the court system, prosecution, defense attorneys, defendants, and the Department of Corrections. Resources are limited and inefficiency only aggravates the situation. Pretrial delay not only affects victims, it affects every agency and every person associated with the criminal justice system. Reducing pendency time will improve efficiency, reduce costs, and better protect justice. OVR attorneys have personally observed several cases which, due to delay, the prosecution's case was badly prejudiced or was dismissed because the victim or other key witness became unavailable, and the criminal prosecution could not move forward. Justice delayed is justice denied

OVR has raised this issue continually with criminal justice agencies for more than ten years. The failure to lessen pretrial delay often has more to do with the specific judge and attorneys assigned in those cases and a culture amongst practitioners and judges in Anchorage that exacerbates the problem. One problem is there is no accountability. Judges are not held accountable. Neither judges nor the agencies hold the practitioners responsible. Another problem is in Anchorage is there is no will to change. Even when an order is issued which would seemingly address some of the pre-trial delay causes, the judges don't follow the order or stick to it and there are no ramifications for failure to do so. More timely disposition is possible. This is evident

because other judicial districts in the state move felony cases quicker, in general, than felony cases move through the Anchorage court. OVR applauds the steps taken by judges, notably in other parts of the state, to move cases more effectively through the system.

The COVID-19 pandemic intensified the pretrial delay issue, but it also became a convenient excuse. While a few trials were held around the state in the first half of the reporting years, normal trial scheduling did not resume until June. This stoppage due to the pandemic suspended the victims' right to a timely disposition and has only significantly increased the backlog of cases, further delaying the victims' opportunity to have closure. While trials could not be held during the pandemic, the hiatus from trials provided a unique opportunity for defense attorneys to focus on reviewing discovery, filing motions, and reviewing offers. It also provided prosecutors a chance to review discovery, ensure discovery is provided to the defense in a timely manner, to make plea offers, and to file or respond to motions. Unfortunately, the time was squandered by the prosecution and defense and allowed to be wasted by judges, further worsening the backlog of cases.

### **Off-Record Continuances in Anchorage Deny Victims' Constitutional Rights**

During COVID a new trend developed in the Anchorage courts which has denied victims their constitutional rights to notice, to be present, to be heard, to a timely disposition and to be treated with dignity, fairness, and respect throughout the criminal justice process. The routine practice of off-record hearing continuances engaged in by Anchorage Superior Court judges is a practice OVR does not see in other judicial districts in the state, and about which judges from other judicial districts have expressed dismay. This practice only exacerbates the pretrial backlog and should stop immediately. However, the courts have chosen to sacrifice victims' constitutional rights for convenience and unapologetically so. The buck stops with the judges.

An off-record continuance occurs when either the defense attorney or prosecution emails a judge's judicial assistant asking that a hearing be cancelled and reset to another day. The vast majority of these requests are agreed to by the opposing party. These requests are usually made the day before or day of the hearing, more often the day of the hearing. This procedure lacks transparency because it occurs outside the public court process.

Victims are not contacted by the prosecutor to ask if they oppose or support the off-record continuance. The judge does not ask any questions of the parties in this process, including whether the victim has been notified and their position. In essence, the request is rubber-stamped without consideration of the victim. Hearings are often pulled off the calendar the same day that the hearing was scheduled. Many victims make time in their day whether scheduling a work break or time off work to attend. Attending hearings also takes an emotional toll on victims so participating is not as benign an activity as it is for the parties or judges. While taxing, attending hearings is very important to many victims and it allows them an opportunity to be connected and heard if they oppose any request for a continuance which affect their constitutional right for a timely deposition.

The prosecutor's office does not notify victims of these off-record continuance requests before agreeing to them, hence violating their right to be notice and the right to be heard. The automated notification system called Vinewatch, which many victims have but requires a request to the DA's Office to be enrolled, does not notify victims of the request, only the change in hearing times after the court continues. Once again, victims are denied the right to be heard on the request and the right to be treated with dignity, fairness, and respect. Courtview information is uploaded

to Vinewatch only certain times and often fails to provide notice of a schedule change until after the hearing was supposed to take place.

The same failures of notification to OVR when we legally represent a victim in a case also occur. The criminal presiding judge in Anchorage has ordered that OVR be included in the emails sent requesting the off-record continuance. Some judges' chambers are quite good at making sure OVR is notified even if the defense and prosecution are not. There are other judge's chambers that make sure OVR is included and given the opportunity to be heard on our victim clients' behalf. While the order is applauded to include OVR in these email requests, there is no ramification for judges who do not. Moreover, the public is not aware of this happening so is not able to hold judges accountable on their failure to ensure victims' rights at retention time.

It is not good enough that OVR is usually notified because there are at least hundreds of Anchorage victims, if not thousands, who have not sought OVR representation and are cut completely out by this off-record continuance process. Constitutional rights should be protected by the court for victims with or without OVR representation.

Imagine going to the courthouse or calling in for a hearing during a time when tens of cases are scheduled, waiting for your case to be called by the court – sometimes waiting hours – only to not have it called and when the court is questioned, the judge says that it was continued off record and provides the new date. It is a disrespectful and unfair practice by the court which results in time wasted, frustration with the system, victim disenfranchisement from the process and sometimes adds to financial and emotional hardships.

OVR attorneys suffer this plight too. There are numerous times we have sat on the phone waiting for hours, only to learn of the off-record continuance. Those are lost hours for our four attorneys which would be better spent serving the victims we represent across the state. When OVR attorneys point out the court's infringement on the victim's rights, the judge usually apologizes but provides no remedy to the violated victim. One would think that OVR reminding them of the rights violated would heighten their awareness of the issue and they would make sure it is not repeated, yet several judges time and time again repeat these failures.

The Anchorage practice of off-record continuances should be immediately ended. Constitutional rights should never be sacrificed for mere convenience.

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

A huge amount of crime victims' property is 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 as evidence in the case. Usually, they cannot release it 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 the time of trial. The system is set up to protect the defendant's rights, but at the same time it denies victims their right to their own property. The pretrial delay issue, described above, exacerbates the harm caused to victims. Law enforcement agencies are usually amenable to releasing the property, especially since holding it is financially and physically burdensome for the agencies. However, it is the prosecutors, defense attorneys, and/or the court preventing release. Much of what is held in evidence can be preserved in other ways, such as by photographing it, documenting it, swabbing it for biological evidence and even giving the defense an opportunity to view it, in order to more quickly allow its release. These actions are often not taken because it is easier to seize and keep for the criminal justice system interests rather than return it to the owner in an expedient manner. Not only has the victim been victimized by the criminal's actions but continues to be victimized by the system denying victims return of 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 parties 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. This process has worked for many victims but can still take several months once the process begins.

### **Victim Notification of Plea Offers**

Under Alaska law, prosecutors, are required to notify victims of any plea offers in felony cases before the offer is provided to defendants. Generally, prosecutors and their paralegals do a fairly good job of meeting their legal obligations to crime victims, but there is room for improvement. This failure to provide notification of plea offers is a common complaint received by OVR. Our investigation often determines that the prosecutor sent a plea offer to the defendant without discussing it with the victim first. When this happens there is no remedy unless the offer expires without acceptance. In any criminal case, if a prosecutor sends an offer without first discussing it with the victim, the victim's constitutional right to be treated with dignity, fairness, and respect is violated and they have prevented the victim from having any input. If a prosecutor fails to do so in a felony case, they have not only violated the victim's rights to notification and fair treatment, but also violated the statute when the victim requested prior notification before a plea agreement was entered with the defense. These are violations that should never happen. Paralegals and prosecutors should specifically be trained on their obligations to victims and if a judge learns the statute and a victim's right has been violated, the judge should not accept the agreement to allow the victim to have some input in order to remedy the constitutional and statutory violations.

### **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 exist are not enforced, or changes to policy and laws, which could help, are a low priority for those in a position to change them. A statute passed in 2018 created a Restorative Justice Account (RJA) for victims to apply for state funds to satisfy a restitution judgment, that after two years or more, remains unpaid. OVR administers RJA grants for victims who apply. 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 additional policies or statutes which would result in more restitution payment compliance by defendants.

## **FINAL NOTE**

This will be the last annual report I provide as I will be retiring soon. It has been an incredible privilege and honor to be the Chief Advocate at OVR for the last 10 years. I have been inspired by the victims we have worked with of whom too many have suffered trauma, losses, and horror no one should experience. I have been incredibly fortunate to have the great team of staff and attorneys at OVR who are dedicated, professional and passionate in their advocating for victims. We have made many strides forward in the criminal justice system for victims, but there are many areas of improvement still needed to make sure the scales of justice are truly balanced for victims and defendants. I would like to thank the Legislature for creating and supporting OVR. I want to thank the incredible people in Legislative Affairs who provide administrative support and I thank everyone in the community – law enforcement, prosecutors, DOC, judges, advocates, fellow citizens, and countless others– who try to ensure justice, help victims, follow rules and laws, and who try to better our communities.