



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

**July 31, 2014**

A handwritten signature in black ink, appearing to read "Taylor E. Winston". The signature is written in a cursive style and is positioned above a horizontal line.

By: Taylor E. Winston  
Executive Director  
Alaska Office of Victims' Rights  
1007 West Third Avenue, Suite 205  
Anchorage, Alaska 99501-1936  
Phone: 907-754-3460  
Fax: 907-754-3469  
ovr. akelg.gov

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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, as an ombudsman, complaints by crime victims concerning criminal justice agencies; and 3) to participate in community and government advocacy groups to improve crime victim experiences in the criminal justice system.

Created by the Alaska Legislature in 2001, 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. In 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 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 grew up in Texas. She graduated with a Bachelor of Arts in Political Science, a Bachelor of Fine Arts in Journalism, and a Bachelor of Business Administration from Southern Methodist University in 1985. She earned her Master of International Affairs from Columbia University in 1988. After graduate school, Ms. Winston worked as an international trade program analyst at the U.S. General Accounting Office in Washington D.C. for several years before attending Georgetown Law Center. She earned her Juris Doctorate from Georgetown in 1997. That same year, she moved to Alaska to clerk for Superior Court Judge Larry Card in Anchorage. Following her clerkship, she was an associate at the law firm of Atkinson, Conway and Gagnon. In 1999, Ms. Winston became an assistant district attorney for the State of Alaska. Ms. Winston primarily prosecuted domestic violence assaults, sexual assaults, sexual abuse of minors and homicide cases. During her thirteen-year career as an assistant district attorney, she served two years in the Bethel DA's office and 11 years in the Anchorage DA's Office, where she supervised the Special Assaults Unit for six years. Ms. Winston has been a member of the Alaska Bar since 1997 and is also a member of the U.S. District Court of Alaska and the U.S. Supreme Court.

### *Katherine J. Hansen, Senior Victims' Rights Attorney*

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

### *Shaun M. Sehl, Associate Victims' Rights Attorney*

Ms. Sehl grew up in Minnesota. She attended Loyola College in Baltimore, Maryland, graduating in 1988, and University of Oregon School of Law, graduating in 1993. Ms. Sehl came to Alaska in September 1993 to serve as the first on-site Law Clerk for Judge Curda in Bethel, Alaska. In the fall of 1994, she became the Law Clerk and Visiting Magistrate for the judges in the Second Judicial District, including Nome, Kotzebue and Barrow, and regularly traveled to all three locales. In 1996, Ms. Sehl became the first on-site Assistant Attorney General in Bethel, representing the Department of Health and Social Services in Child in Need of Aid and Juvenile Delinquent Cases. In 1998, Ms. Sehl moved to the Bethel District Attorney's

Office, serving as a prosecutor until December 1999. Ms. Sehl returned to Minnesota from 2000 to 2007 to work in the private sector with other family members in a start-up import business. Ms. Sehl returned to Anchorage in February 2007 to take her current position with the Office of Victims' Rights.

***Irene S. Tresser, Associate Victims' Rights Attorney***

Ms. Tresser grew up in Berkeley, California. She graduated from UC Santa Barbara in 1997 with a Bachelor of Arts Degree in English, French and Philosophy. She received her Juris Doctorate from UC Davis in 1990. She has clerked for several judges, including Justice Robert Rose of the Nevada Supreme Court and Judge John W. Sedwick of the United States District Court in Alaska, and served as a staff attorney for the Ninth Circuit Court of Appeals in San Francisco. Ms. Tresser has been an Alaska resident since the early 1990s. She possesses significant experience in legal research and writing and in appellate matters at all levels of the Alaska court system. She is a member of the Bar in Alaska, California and Nevada. Ms. Tresser transferred from OVR to the Alaska Court System in late May 2014.

***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.

***Canice Bryson, Office Manager/Paralegal***

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

***Dana Murphy-Hoffman, Special Projects Coordinator***

Dana Murphy-Hoffman joined the Alaska Office of Victims' Rights in June 2006. Before joining the office, she worked with the Alaska Court System for seven years. Ms. Murphy Hoffman worked as a Judicial Assistant in the District Court and served under Judge Peter Ashman, Judge Samuel D. Adams and Judge Gregory Motyka. Ms. Murphy-Hoffman served on several planning committees for the Alaska Court System and has over ten years of experience as a legal secretary. Ms. Murphy-Hoffman's duties as Special Projects Coordinator

include the Domestic Violence Fatality Review Committee. She is responsible for the administration of the individual teams conducting each fatality review and drafting team reports. Ms. Murphy-Hoffman has worked with the Domestic Violence Review Team for the past six years. Ms. Murphy-Hoffman retired from OVR and state service in late May 2014.

***Jenni Summers, Legal Secretary/Special Projects Coordinator***

Mrs. Summers grew up in Southern California where she was a police officer from 1996 to 2002. From 2002 to 2004, she worked as the Substance Abuse Program Coordinator and Case Manager at 2 separate domestic violence shelters in Joshua Tree, CA and Oceanside, CA. In 2004, she became an Investigator conducting background investigations for Federal Security Clearances. She continued in her role as an investigator until 2012 when she and her family moved to Anchorage. At that time, she took a position in the DV Unit at the Anchorage Municipal Prosecutors Office. She joined OVR in May 2014, replacing Ms. Murphy-Hoffman.

OVR welcomes our newest staff member who joined the office in early July 2014:

***Trina M. Sears, Associate Victims' Rights Attorney***

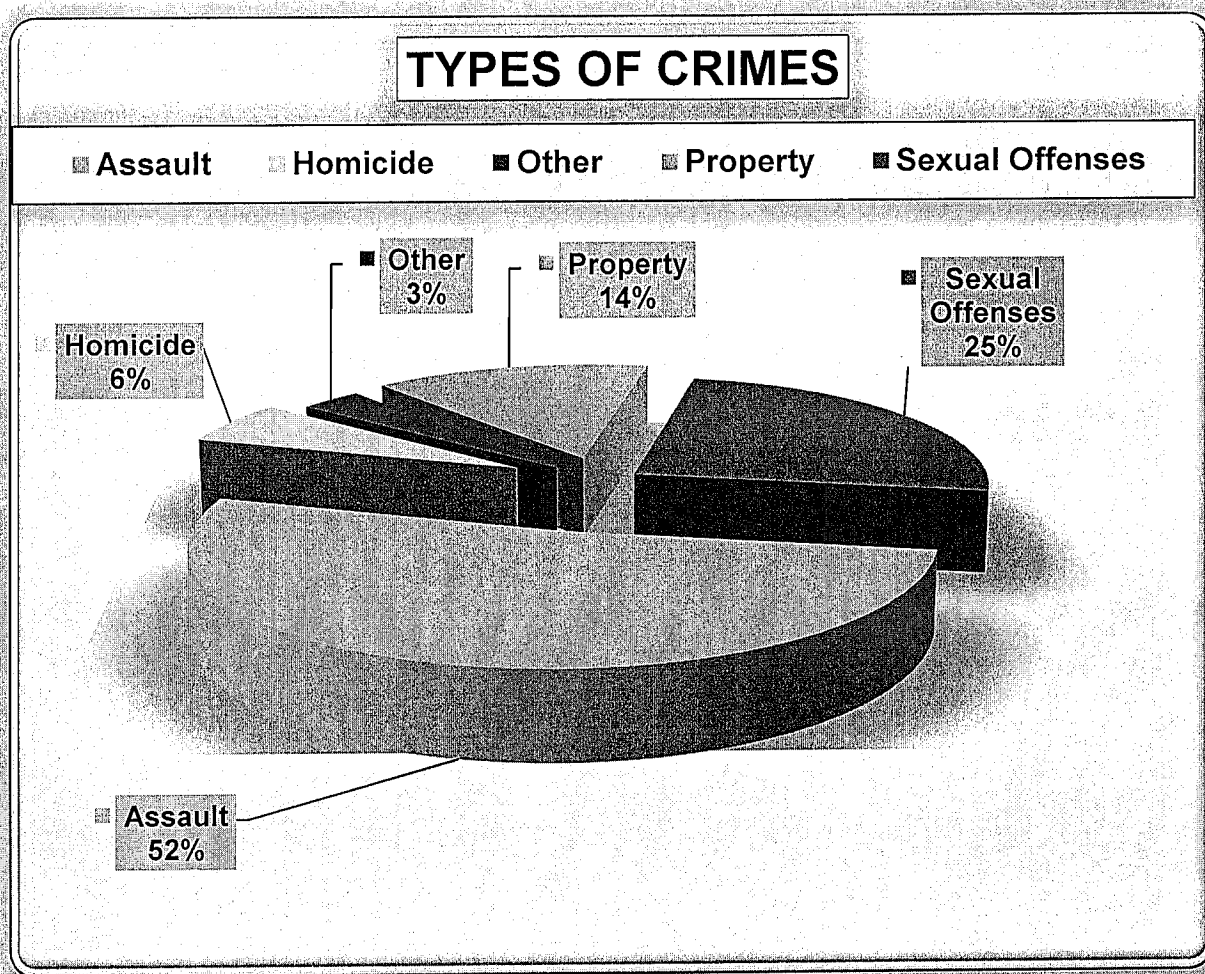
Ms. Sears was born in Anchorage but grew up in Wasilla. She attended Barnard College, Columbia University and received a Bachelor of Arts *cum laude* in 2000. She attended Northeastern University School of Law and graduated in 2003. Ms. Sears completed a clerkship with Superior Court Judge Larry Card from 2003 – 2004. She was hired in 2004 as an Assistant District Attorney with the Anchorage District Attorney's Office. From 2004 – 2008, Ms. Sears worked in the Anchorage DA's Office and began to focus on prosecution of sexual offenses against adults and children. In January 2008, Ms. Sears relocated to the Palmer District Attorney's Office and continued to specialize in crimes of sexual assault, sexual abuse, domestic violence and homicides.

## **LEGAL SERVICES PROVIDED BY OVR**

The following information pertains to the legal cases handled by OVR during the current reporting period of July 1, 2013 through June 30, 2014. During this period, 248 cases were opened by OVR requiring active legal assistance on behalf of crime victims.

**OVR Opened 248 New Cases between July 1, 2013 and June 30, 2014.**



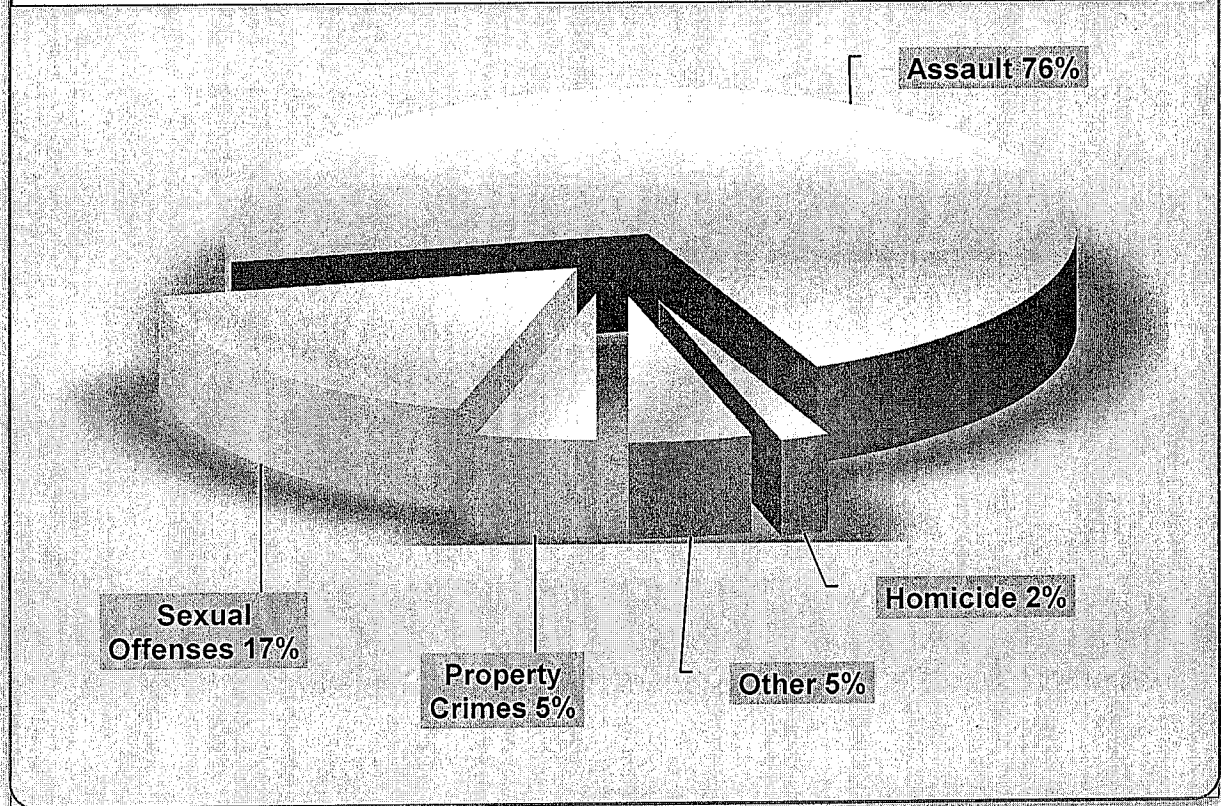


OVR primarily assisted victims who experienced crimes against the person. These crimes involve homicide, kidnapping, assault, robbery and sexual offenses. Fifty-two percent (52%) of OVR's caseload involved crimes of assault. Twenty-five percent (25%) of OVR's caseload centered on sexual abuse of minors and sexual assault crimes. Compared to last year, OVR represented a higher percentage of property and sexual offense victims in the current reporting year.

OVR continues to assist a high number of victims of domestic violence. The number of domestic violence cases handled by OVR in the current reporting year stayed approximately the same as in the previous year. Forty-four percent (44%) of OVR's caseload involves domestic violence crimes. Of the crimes of domestic violence, a large majority (71%) of those were assault crimes.

## CRIMES INVOLVING DOMESTIC VIOLENCE

Assault   Homicide   Other   Property Crimes   Sexual Offenses



The majority of OVR cases originated in the Third Judicial District. Given that this district comprises the most populated region of the state — Anchorage, the Matanuska-Susitna Valley, and the Kenai Peninsula, it is no surprise that seventy-four percentage of OVR's caseload originated in the Third Judicial District. OVR saw a 4 % increase over last year's statistics in the number of cases originating in the Fourth Judicial District.

## LOCATION OF CRIMES

1st Judicial District  
3rd Judicial District

2nd Judicial District  
4th Judicial District

3rd Judicial District  
74%

2nd Judicial District  
3%

1st Judicial District  
5%

4th Judicial District  
18%

OVR tracked crime victim data according to judicial district. OVR handled 12 cases in the First Judicial District, 7 cases in the Second Judicial District, 183 cases in the Third Judicial District, and 46 cases in the Fourth Judicial District. In each judicial district, OVR primarily served victims of sexual offenses and physical assault. OVR continues to represent clients in court, distribute information, conduct trainings, and pursue investigations on behalf of crime victims across the state of Alaska.

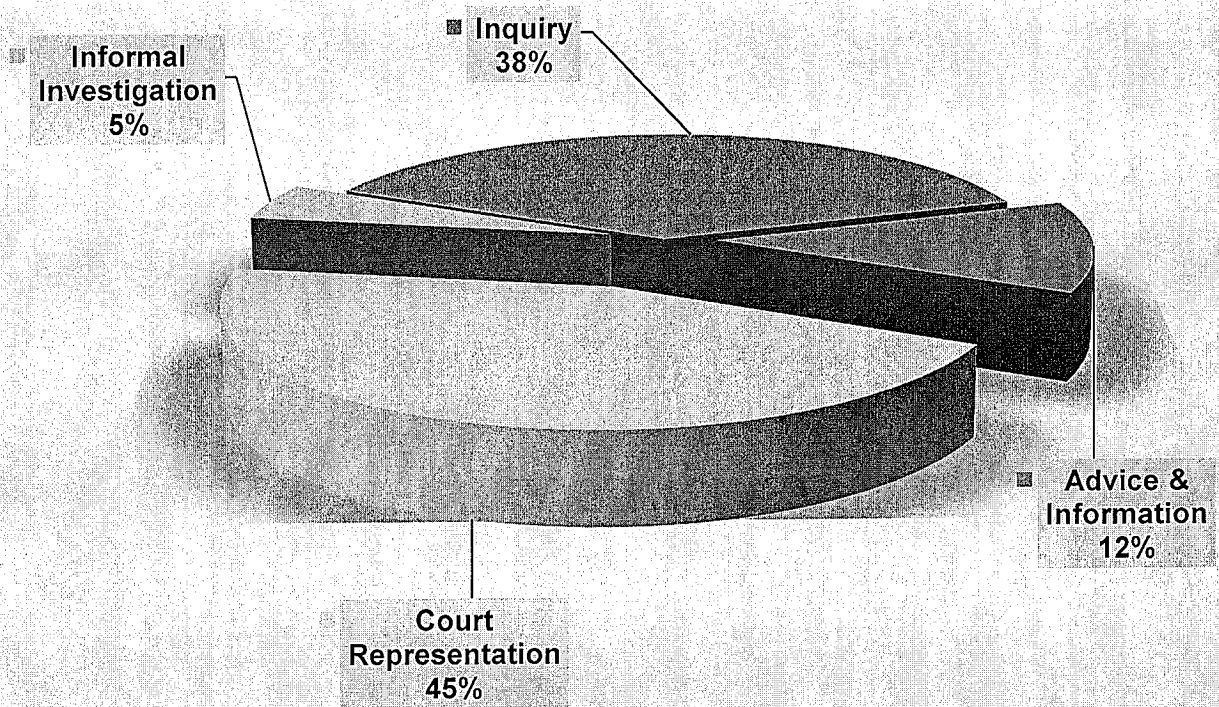
## CATEGORY OF ASSISTANCE

■ Advice & Information

■ Court Representation

■ Informal Investigation

■ Inquiry



## REPRESENTATION OF CRIME VICTIMS IN ALASKA COURTS

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

Approximately one-half of OVR's caseload requires in-court representation of crime victims. OVR also provides substantial informational services for Alaska crime victims by responding to general inquiries and providing case specific advice.

**Advice and Information:**

Thirty-one (31) 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:**

Ninety-three (93) crime victims came to OVR with particular problems 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:**

Twelve (12) 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.

**Formal Investigation:**

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

**Court Representation:**

One hundred twelve (112) clients came to OVR with significant problems or concerns regarding active criminal cases and the desire to participate in court proceedings. In addition to requesting documentary evidence from judicial agencies, these cases gave rise to an OVR attorney presence in the courtroom on behalf of the victim and their interests. Examples of court representation include cases in which OVR staff attorneys spoke on behalf of crime victims at hearings involving bail, change of plea, sentencing, as well as at trial, including juvenile adjudications.

## Contacts

Two hundred thirty-five (235) persons contacted OVR for information, legal advice, or referrals to other victim service agencies. Many of these individuals were not eligible to file a complaint or to request OVR services due to lack of OVR jurisdiction. These figures are not included in the total number of new cases opened during the reporting period given that these contacts did not result in a new OVR case being opened.

**Therefore, during the current reporting period, OVR served 483 Alaska residents through OVR's services, and information and referrals provided.**

## OVR EDUCATION AND TRAINING

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

<u>Date</u>	<u>OVR Trainings Attended</u>
August 13, 2013	<b>“18th Annual Informal Discussion with the U.S. Court of Appeals for the 9th Circuit”, Anchorage</b>  Taylor Winston attended this program, which focused on appellate practice before the United States Court of Appeals for the Ninth Circuit, including appellate motion practice “do’s and don’ts” for appellate briefs and appellate oral arguments.
August 13, 2013	<b>Overview of the Alaska State Ombudsman’s Office, Anchorage</b>  Taylor Winston, Shaun Sehl, Kathy Hansen, Irene Tresser, Canice Bryson and Joseph Young attended a multi-agency meeting to exchange information about OVR and to learn more about the Alaska State Ombudsman’s Office.
January 8, 2014	<b>Agency Networking Gathering, Anchorage</b>  Ms. Winston attended Southcentral Foundation’s Family Wellness Warriors Initiative (FWWI) and North Star Behavioral Health’s Agency Networking Gathering. The event offered opportunities to network and make connections with various state and local organizations; collaborate with organizations and learn programs offered and shared information about OVR; and hear presentations from the Office of Children’s Services and Debarr Residential Treatment Center.

May 9, 2014

**Legal Research Refresher, Anchorage**

Kathy Hansen, Shaun Sehl and Irene Tresser received training on a legal research database to enhance OVR attorneys' research efforts.

May 12-14, 2014

**Alaska Peace Officers Association Conference, Fairbanks**

Joseph Young attended this annual law enforcement conference, which provided him an opportunity to interact and engage in outreach to many law enforcement agencies across the state. Mr. Young also visited the AST Detachment and police department while in Fairbanks.

June 5, 2014

**"Ethical Traps and How to Avoid Them", Anchorage**

Kathy Hansen and Shaun Sehl attended this ethics training provided by attorney Mark Bassingthwaighte.

June 19-20, 2014

**National Crime Victim Law Institute Conference, Portland**

Trina Sears attended this annual two-day conference in Portland, Oregon. Ms. Sears had the opportunity to network with other crime victim advocates and attorneys from across the country and attend seminars of a wide variety of topics ranged from protecting sexual assault victims in military to understanding the neurobiology of trauma.

**Date**

**OVR Trainings Provided**

August 19-20, 2013

**2013 Governor's Family Picnic, Anchorage and Mat-Su Valley**

Canice Bryson and Dana Murphy-Hoffman attended the Governor's Family Picnics and distributed information and materials regarding crime victim's rights at a table with other organizations providing services in the community.

September 19, 2013

**Alaska State Troopers Academy, Sitka**

Taylor Winston provided training to new trooper recruits and village police safety officers at the AST Academy. She provided information not only on officers' obligations to crime victims but

also how OVR serves victims across the state and interfaces with law enforcement, prosecution and the court to ensure crime victims' rights are protected

September 24, 2013

**CTC Law Enforcement Interior Academy, Fairbanks**

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

September 24, 2013

**Interior Alaska Center for Non-Violent Living, Fairbanks**

Ms. Winston provided training to IAC advocates as to what is OVR's role, the services OVR provides to victims and how OVR and advocacy groups can work together for the benefit of victims.

November 15, 2013

**Sexual Assault Nurse Examiner Training, Fairbanks**

Taylor Winston provided education to forensic nurses at a statewide training on crime victims' rights, the role of the prosecutor and OVR in the criminal case and the criminal justice process.

January 16, 2014

**Anchorage Municipal Prosecutor's Office, Anchorage**

Taylor Winston provided an overview of OVR's services and victims' rights in Alaska to paralegals and prosecutors in the Municipal Office.

April 21-22, 2014

**Ketchikan Community-Wide Training, Ketchikan**

Taylor Winston had the opportunity to travel to Ketchikan and meet with many groups involved in victim advocacy and the criminal justice system. She gave a presentation, which was open to the community, at the Ketchikan Courthouse. Attendees from the public, court personnel, WISH, Alaska State Troopers and the District Attorney's Office learned about OVR's mission, who OVR can help and the services it can provide to crime victims. She also met separately with advocates from WISH to learn about some of the program's challenges and how OVR can help their clients. Ms. Winston met with officers at Ketchikan Police Department to provided information not only on officers' obligations to crime victims but also how OVR serves victims across the state and interfaces with law enforcement. She also had the opportunity to



meet with the presiding judge and magistrate to discuss OVR's role and some of the challenges OVR faces in its representation of crime victims in court cases.

April 23, 2014

**District Attorney's Office, Sitka**

Ms. Winston meet with the assistant district Attorney and paralegal in Sitka to find out what victims' rights issues they were seeing in their jurisdiction, to provide an update of some of OVR's work over the past year and to provide new materials to the office.

April 23, 2014

**Alaska State Troopers Academy, Sitka**

Taylor Winston provided training to new trooper recruits and village police safety officers at the AST Academy. She provided information not only on officers' obligations to crime victims but also how OVR serves victims across the state and interfaces with law enforcement, prosecution and the court to ensure crime victims' rights are protected.

April 29, 2014

**Fairbanks Interior Academy; Fairbanks District Attorney's Office; Stevie's Place**

Taylor Winston traveled to Fairbanks to provide separate trainings to law enforcement, prosecution and advocates. Ms. Winston provided training to law enforcement officers at the Interior Academy about victims' rights and the requirements law enforcement officers have as they pertain to OVR and to victims' rights.

June 19, 2014

**Alaska Network on Domestic Violence and Sexual Assault**

Taylor Winston conducted a webinar training to legal advocates located around the state. This training provided information about OVR mission as well as its policies, procedures and services.

May 7-9, 2014

**Alaska Bar Association Convention, Anchorage**

Taylor Winston, Kathy Hansen, Shaun Sehl and Irene Tresser had a table at the Bar's Association's annual conference to raise awareness of OVR and distributed information and materials regarding crime victim's rights.

## **OVR AND SYSTEM/COMMUNITY-BASED ADVOCACY GROUPS**

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

### System-Based Advocacy Groups

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

OVR serves as a member on the Office of Victims of Crime's Wraparound Victim Legal Assistance Grant Steering Committee. The Steering Committee members are working together to develop a comprehensive and collaborative model for delivering wraparound pro bono legal services to all crime victims and to develop referral protocols to meet the wide range of crime victims legal needs related to their victimization.

OVR participates in 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 approximately three to four times per year to evaluate Alaska Criminal Rules and offer proposed changes to the rules which would better serve the criminal justice process.

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

Over the course of this reporting year, OVR's Executive Director attended Bench Bar meetings, met with the Attorney General, as well as representatives from the Department of Law, various police departments across the state, and the Office of the Governor. OVR supports the Governor's Choose Respect campaign and has participated in activities related to this initiative. OVR attorneys met with representatives from the state Ombudsman's office, as well as representatives from the Department of Corrections, and the Office of Special Prosecutions and Appeals of the Department of Law. OVR attends meetings in support of the work of the State of Alaska Executive Branch to increase public awareness concerning domestic violence and sexual assault crimes in Alaska.

### Community-Based Advocacy Groups

OVR engages in outreach to community-based advocacy and victim support groups and supports their efforts. Over the course of this reporting year, the OVR attended meetings or events with representatives from Abused Women's Aid in Crisis (AWAIC), Women In Safe Homes (WISH), and Interior Alaska Center for Non-Violent Living (IAC), Victims for Justice, and the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA).

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. OVR continues to reach out to the community.

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

The Alaska Office of Victims' Rights Executive Director has been involved with the Domestic Violence Fatality Review Committee for years. During the current reporting period, OVR continued to supply administrative support to the DVFRT Advisory Committee and the Review Teams. OVR Special Projects Coordinator, Dana Murphy-Hoffman continued to work closely with the DVFRT. The DVFRT Review Teams complete cases reviews and formulate system-wide recommendations to submit to the DVFRT Advisory Committee. With Ms. Murphy-Hoffman's retirement, Ms. Summers will now provide the administrative support to the DVFRT in her place.

The Anchorage Domestic Violence Fatality Review Committee continued its vital work to understand and improve system wide responses to domestic violence. The DVFRT completed an entire review of a domestic violence homicide this reporting year.

OVR hosted this year's meetings of the DVFRT. Both Ms. Winston and Ms. Murphy-Hoffman continued to work with the DVFRT to better understand domestic violence crime and improve system-wide responses for crime victims. OVR remains committed to this project in order to help victims of domestic violence in Anchorage and throughout the state.

## **RURAL ALASKA OUTREACH**

OVR continued its educational outreach to communities outside of the metropolitan area of Anchorage, as noted in the training section above.

During the 2014 reporting period, OVR's Executive Director traveled to Fairbanks, Sitka, and Ketchikan to provide information about OVR and listen to the concerns of victim advocates, medical providers, prosecutors, court personnel and law enforcement.

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's Executive Director Taylor Winston initiated personal contacts with police officials in Anchorage, Fairbanks, Sitka and Ketchikan. She met with the officials in those departments to discuss police notification to victims about OVR, how that notification process could be made easier for officers, and the handling of and access to police reports. As noted above, she travelled twice to Sitka to provide training to new trooper recruits and village police safety officers about OVR's mission, operations and its interface with law enforcement. She also provided training twice to recruits and officers at the Interior Academy in Fairbanks.

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.

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

The following section describes the most prevalent violations of victims' rights OVR has observed during the reporting year. Violations are not limited to these discussed but rather these categories are where OVR has seen the most often and widespread violations of victims' constitutional and statutory rights. There are many court justice system personnel, whether in law enforcement, prosecution of the court system, who are diligent and dutifully in trying to ensure the laws regarding victims' rights are recognized and enforced, there is a need for improvement, particularly in these areas.

### **PROTECTING CRIME VICTIMS' PRIVACY RIGHTS**

During this past year, OVR has continued to fight to preserve crime victims' constitutional and statutory right to privacy and right to due process throughout the criminal justice process. As has been previously reported, one area of great concern is the invasion into the privacy of crime victims. Criminal defense attorneys routinely file pretrial discovery requests asking the court to order production of private information from crime victims. The records sought by the criminal defendant can include medical records, mental health records, counseling records, substance abuse treatment records, Office of Children's Services records, employment records, bank records, cellphone records, school records, email records, and photographs. Often,

when the defense attorney files a motion with the court requesting release of the confidential and privileged victim records, the victim is not notified and is not given an opportunity to be heard on the matter before the court grants the defendant's request. This result not only violates the victim's constitutional right to privacy but also the victim's constitutional right to due process.

OVR has observed the trend for defense attempts to obtain private victim information. It began with victims of sexual assault and domestic violence as targets. Recently, however, defense attempts to obtain private information have expanded to crimes of all types and to both victims and witnesses of crime. This year, OVR has seen a notable increase in the number of crime victims affected by this tactic. In several instances, OVR has seen defense attorneys unethically send a subpoena to the records holder with instructions that the victim records may be sent directly to the defense attorney--circumventing court proceedings and depriving the victim of notice and an opportunity to be heard. OVR will continue to fight these due process violations on behalf of crime victims.

Numerous victims sought OVR's assistance this reporting year because of defendants' efforts to acquire their personal records. Victims are entitled to such notice and opportunity to be heard whether or not they are represented by OVR. Even in cases where OVR represents a victim and has entered an appearance in the criminal case, the defense by and large fails to serve OVR or the victim with the motion. Generally, the courts have failed to recognize that victims have a right to notice of the motion and a right to be heard on the motion. OVR notes that there are several judges across the state that are conscientious about providing notice to the victim and an opportunity to be heard, but they are the exception not the rule. OVR hopes to see in this next reporting year that when the defendant files such motions they are required to serve OVR, and that victims are given the opportunity to be heard before any ruling. Service of such pleadings is important for the interest of justice, the interest of judicial efficiency and economy and to ensure citizens' constitutional rights are protected.

The criminal defendant usually asserts in these motions that the records are necessary to show that the crime victim may have difficulty perceiving reality due to alcoholism, combative natures, or possible (although not necessarily confirmed) mental health diagnosis. They sometimes also assert that the victim's credibility is at issue and the records they seek will show that the victim is not a credible witness. One noteworthy example is in the case of *State vs. Standifer*, where the trial court granted the defense's motion to compel disclosure of the victim's records. The court ordered N. G., a victim of a brutal physical and sexual assault, to provide all her mental health, medical and substance abuse treatment records to the court for in camera review. Even more invasive, the court ordered N. G. to compile a list of all of her providers and file this list with the court to facilitate the court's efforts to locate these records. N. G.'s treatment providers are not mentioned anywhere in the investigative report. OVR filed an application for relief to the Alaska Court of Appeals at the request of N. G.

On December 14, 2012, the Alaska Court of Appeals issued an appellate opinion in the case of *N.G. v. Superior Court*, 291 P.3d 328 (Alaska App. 2012). The decision was favorable for crime victims on several fronts. First, the appeals court, at least implicitly, recognized that a victim has the right to seek and obtain appellate relief to protect her constitutional and statutory legal rights during the course of a criminal prosecution. *N.G.* at 330. Second, the appeals court upheld an evidentiary privilege, the psychotherapist-patient privilege, for a crime victim,

interpreting "confidential communications" within the context of that privilege very broadly. *N.G.* at 334 and 339. The decision to protect the evidentiary privilege is consistent with the appeal court's previous decisions to uphold the privilege for criminal defendants. See *Allred v. State*, 554 P.2d 411, 422 (Alaska 1976); *M.R.S. v. State*, 897 P.2d 63, 64 (Alaska 1995); *State v. R.H.*, 683 P.2d 269 (Alaska App. 1984). Third, the *N.G.* decision sets forth at least minimal standards for similar discovery requests, providing guidance to criminal trial judges and attorneys statewide. *N.G.* at 337 – 339. The *N.G.* court reversed the trial court's ruling, finding that the defense's "offer of proof was insufficient to justify an in camera examination of N. G.'s privileged records." *N.G.* at 340. The *N.G.* opinion suggests the court may in the future employ a strict scrutiny analysis, or some other protective standard, before allowing a victim's privilege to be pierced. *N.G.* at 338. Unfortunately, more work is needed in this area. The *N.G.* opinion left open the question of whether and what situations may present in the future that would allow the court to pierce the privilege. *N.G.* at 337.

State wide, the defense bar continues to file motions, as a routine practice, asking courts to violate the victim's right to privacy. This is occurring despite legislative measures that have been previously enacted to protect crime victim privacy. See A.S. 12.45.049 victim counselor privilege. OVR anticipates that the defense will expand their attempts to pry into the private lives of victims and witnesses under the guise of seeking evidence regarding perception or credibility. These attempts, however, are often a fishing expedition for information to use against a victim or witness and a way to intimidate them or chill their participation in the process. Hopefully, the courts will be vigilant in applying the law and requiring the defendants to meet the burdens required before invading victims' privacy. See *Spencer v. State*, 642 P.2d 1371, 1376 (Alaska App. 1982) (instructing courts and prosecutors to determine whether victim asserts an evidentiary privilege). Overall, the *N.G.* decision is cited favorably by trial courts in denying these type motions. OVR will continue to represent crime victims in individual criminal cases where a victim's privilege and privacy need protection.

## **LENGTHY CONTINUANCES OF TRIALS, SENTENCINGS, AND APPEALS**

An on-going problem experienced by a large percentage of crime victims is delays in the time it takes for criminal cases to resolve whether it is in getting the case to trial, having the defendant sentenced or concluding the appeals process.

It is not unusual for felony cases to take 2 to 3 years before victims see their case go to trial or result in a plea agreement. Some cases take 4 to 5 years before they end in a trial or plea agreement. OVR represents victims in cases in which, despite the victims repeated assertion for a speedy disposition of the case, continuances are granted. While the courts must consider the due process rights of the defendant and weigh those against the victims' right to a timely disposition of the case, few courts give serious consideration to the victim's position.

Two examples of lengthy delays of pre-trial cases OVR has seen are the following. In a pre-trial felony property case, the case is so far 3 years old and has had 31 pre-trial conferences. In another three-year old pre-trial homicide case, the case so far has had 20 trial continuances. OVR is also seeing an emerging trend regarding continuances of felony sentencings, in particular in those cases in which there was a trial. Traditionally, a felony sentencing takes place approximately 3 to 4 months after a defendant is convicted. OVR has had several cases in the

reporting year that took approximately one year to reach the sentencing phase. One example is the case, discussed above, of *State v. Standifer*. The defendant was sentenced last week, almost a year after he was convicted at trial. There was even a last minute attempt by the defense to continue the sentencing an additional four months. There are virtually no reasonable justifications for sentencing delays of this magnitude, yet it was a more common this reporting year than in past years. Lengthy continuances deny the victim an opportunity to have closure. It is emotionally draining and leaves the victim frustrated and disillusioned about the administration of justice and our criminal justice system. Such delays clearly violate the victim's constitutional right to be treated with dignity, fairness and respect and the victim's constitutional right to a timely disposition of the case.

The long road to a final disposition in a criminal case does not end once a defendant is sentenced. The appeals process can take itself 2 to 3 years before a decision is reached. Across the board, the public defenders are requesting a one year extension to file the initial appeal brief in criminal cases after the defendant has given notice of his/her intent to appeal. The time it takes to resolve criminal matters in the Alaska courts is one of the most frustrating and disheartening aspects of the criminal justice system for victims. Improvements need to be made to ensure a more efficient and timely administration of justice for the victims, the defendant and the community.

## **NEW LEGISLATION AFFECTING VICTIMS**

### **OVR's involvement in the legislative process to enhance and/or preserve victims' rights**

OVR was actively involved with two bills before the legislature this reporting year. The first bill was Senate Bill 110, sponsored by Senator Dyson, which sought to remedy a loophole that existed in A.S. 12.36.070, Return of Property by Hearing. This statute required that if a request to return property is made by a Victims' Advocate (OVR) to a law enforcement agency on behalf of a crime victim, the law enforcement agency has 10 days to return the property or to request a hearing before a court to determine if the property should be released to a crime victim. OVR represented several crime victims seeking the return of their property under A.S. 12.36.070 and discovered that the statute provided no relief to victims if a law enforcement agency failed to act on a request to return the property by the deadline established. OVR worked with Senator Dyson to amend the statute's language to enhance victims' rights by making it easier for crime victims to recover property from a law enforcement agency. SB 110 builds on the original law and now gives Victims' Advocates the authority to request a court hearing on behalf of a crime victim, should the law enforcement agency not return victims property within 10 days of OVR's request. The amendment now closes the loophole. The governor signed Senate Bill 110 into law on July 16, 2014. This law now establishes a better process for trying to get property returned to crime victims more quickly. *A.S. 12.36.070(f); A.S. 24.65.115.*

OVR was also actively involved in opposing Senate Bill 108, also sponsored by Senator Dyson. Senate Bill 108, Confidentiality of Criminal Case Records, seeks to close to public view any criminal case where a defendant is found not guilty. The bill passed the legislature but as of

this writing has not been signed by the governor. Some of the reasons OVR opposes this bill are as follows:

- The bill is contrary to and significantly undermines a victim's constitutional right to be treated with dignity, fairness and respect.
- The bill contradicts the efforts around the state to end domestic violence and sexual offenses.
- The bill violates the First Amendment and the Freedom of Information Act.
- The bill prohibits citizens from having information which can help them protect their children, themselves, their homes and their businesses.
- The bill is contrary to the general policy goal of transparency of government institutions and therefore citizens would be denied the opportunity to see or challenge how their government institutions are working.
- The bill would prevent a victim from acquiring information from the court's file in his/her case, if closed. To gain access the victim would be required to file motions with the court and the decision of whether the victim could ultimately have access would be left to a judge's discretion.
- The bill will make Alaska's children more vulnerable by blocking access to information, within the criminal justice system, that may be of great importance to citizens whether in their personal lives or in civil legal actions, such as family law matters or tort claims.
- The bill demoralizes victims by sending the message that law makers are more concerned with the consequences to an offender than the harm to a victim, and that victims don't matter.

A recent example of what types of information would be closed to a victim, a victim family, the media and the public is in the recent case of the murder of Breanna Moore. If Senate Bill 108 were to become law, the information that the defendant charged in her murder, Joshua Almeda, had been previously charged and tried for a domestic violence assault and weapons charges, yet acquitted of those charges, would be kept secret. This bill would also prevent the public and the media from knowing about many other cases. For example, an older but prominent case is that of Joshua Wade. Wade was charged but acquitted of the murder of Della Brown and later charged with the murder of Mindy Schloss. The point that an acquittal does not mean a person is innocent is highlighted by the Wade case because even though a jury acquitted him he has since pleaded to killing both Della Brown and Mindy Schloss. OVR stands by its position that Senate Bill is unconstitutional in that it violates the First Amendment and victims' constitutional rights and that the bill would cause many unintended consequences for the community.

### **Bills signed into law affecting victims**

The following bills have been signed into law by Governor Sean Parnell, which will improve public safety and be of particular interest to victims.

Senate Bill 64, the omnibus crime bill, had a couple of sections related to victims' rights and issues involving victims' rights. First, under A.S. 12.30.011(b), an amended was made to the statute regarding release of a defendant prior to trial. Judges, when considering a defendant's bail



release before trial, can require the defendant to comply with alcohol and substance abuse monitoring programs if the defendant is charged with an alcohol-related or substance-abused related crime that is an unclassified felony, a class A felony, a sexual offense felony, or a crime involving domestic violence. *A.S. 12.30.011(b)18*. Second, the bill also establishes the Alaska Criminal Justice Commission, which will evaluate the effect of sentencing laws and criminal justice practices on the criminal justice system to determine whether sentencing laws and criminal justice practices protect the public, support community condemnation of the offender, protect crime victims' rights, protect the accused and convicted persons rights, provide for restitution to the victim from the offender and support the principle of reformation. There will be 13 members on this commission, one of which will be victims' rights advocate. *A.S. 44.19.641-649*.

Senate Bill 187 makes it a Class 'A' Misdemeanor for anyone to distribute or publish an audio or video recording of an interview of a child, or other physical evidence such as medical photos, gathered for a child abuse investigation. This bill is based on a real life case in Alaska where a video of a young child and the child's sibling being interviewed in an abuse investigation was posted on You Tube, re-victimizing those children. No child should ever have to suffer this kind of re-victimization. SB187 also includes a provision requiring the attorney representing the defendant to physically keep video and audio interviews as well as photographs of medical exams of crime victims. The evidence can be shared with the defendant, but the defendant is prohibited from having copies of the materials. *A.S. 11.76.113(a)*.

Senate Bill 128 criminalizes cyberbullying of minors by expanding the definition of criminal harassment in the second degree. The law now includes insults, taunts, challenges and intimidation of a person under 18 years of age sent via electronic communications that puts the minor in reasonable fear of physical harm. The bill's language also includes the act of posting something to a publicly viewed website, such as social media sites or blogs. Under the new law people convicted of cyberbullying could spend up to 90 days in jail. *A.S. 11.61.120(a)(7)*.

Senate Bill 124 extends the Council on Domestic Violence and Sexual Assault for another eight years until June 30, 2022. The Council on Domestic Violence and Sexual Assault serves the public interest by funding and monitoring Alaskan domestic violence and sexual assault response programs and prevention activities. The Council also serves as the central coordinator for related services throughout the State. *A.S. 44.66.010(a)(5)*.

## **GOALS AND REFLECTIONS**

OVR reaches out to Alaska residents in rural communities to assist and inform them about their Alaska Constitutional and statutory rights.

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

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

Fundamentally, if OVR amplifies the voice of a crime victim in order to have his or her voice considered before the court, it improves the administration of the criminal justice system and helps victims achieve restorative justice.

Our mission to serve individual crime victims, and educate victims and agencies alike. Significant strides have been made over the years in the area of victims' rights, however, some hurdles still remain regarding the recognition and enforcement of victims' rights in Alaska. Lack of knowledge and understanding about victims' rights is the primary source of non-compliance by criminal justice agencies and the court system. One of our missions at OVR is to educate as many groups and agencies as possible about the rights victims have and to encourage those entities not only to support but follow the laws. Crime victim advocacy in Alaska clearly benefits from cooperation and collaboration between the Alaska Office of Victims' Rights (OVR), advocacy groups, criminal justice agencies, and the court system. We will continue to reach out to these groups by providing education and materials, and to engage in dialogues in an effort to better the experience victims have with the criminal justice system and to ensure their voices are heard.