

# Crime Victim Justice Unit

2003–04 Biennial Report

State of Minnesota January 2005

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Minnesota Office of Justice Programs

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# MINNESOTA DEPARTMENT OF PUBLIC SAFETY



## Office of Justice Programs

January 2005

Dear Governor Pawlenty and Members of the Minnesota Legislature:

The Legislature established the Office of Crime Victim Ombudsman (OCVO) in 1985 in response to a recommendation by a state task force which had been convened to assess the needs of victims throughout the state. In 2003, the OCVO became the Crime Victim Justice Unit (CVJU) and it continues to be a vital mechanism for citizens to seek redress of their complaints. The unit strives to make criminal justice organizations more responsive to victim needs.

The Crime Victim Justice Unit submits this biennial report for your consideration. The report provides an overview of the CVJU and information reflecting the work of the unit over the past two years. Also included are case examples, victim rights information, and unit statistics.

The past two years have taught us that recognizing the fundamental needs of victims in the criminal justice system continues to be of paramount importance. When members of the justice system comply with the statutory requirements, victims are more likely to feel heard and feel satisfied with the justice process. Moreover, when victims are informed and treated with respect and common courtesy, they are more likely to accept the legitimacy of the outcome.

The CVJU will continue to work to uphold the fundamental principles underlying the crime victims rights delineated in Minnesota Statutes chapter 611A and will endeavor to make Minnesota more responsive to crime victim needs.

Respectfully submitted,

A handwritten signature in cursive script that reads "Paula Weber".

Paula Weber  
Director, Crime Victim Justice Unit



## Overview

### Introduction

The Office of Crime Victim Ombudsman (OCVO) was created in 1985 with the mission to investigate complaints of statutory victim rights violations and victim mistreatment. As a result of legislative changes, OCVO funding was eliminated and the functions, which are required under Minnesota Statutes 611A.74, were reassigned to the Minnesota Department of Public Safety (DPS). In 2003, under a reorganization by Governor Pawlenty, OCVO was officially transferred to DPS.

The newly created Crime Victim Justice Unit (CVJU), a unit of the Office of Justice Programs (OJP), took over the OCVO responsibilities in mid-2003. While the CVJU does not carry the title of ombudsman, the unit operates under the same principles as an ombudsman. In this role, the CVJU acts as a neutral investigator of complaints and not as an advocate for an individual victim. The goal of the CVJU is to advocate for fairness in the system, appropriate treatment of victims, and adherence to statutory obligations.

The criminal justice system has a key role in protecting the public and achieving accountability. Yet too often the needs of victims become a second-hand concern, with those most impacted by crime having the least information, input, and control over the resulting criminal justice response. The CVJU responds to complaints from those victims who feel that they have been marginalized.

### CVJU Activities

The CVJU investigates allegations of statutory victim rights violations and victim mistreatment and has jurisdiction over all parts of state, county, and municipal criminal justice systems except for the judiciary. The unit serves crime victims by providing the following services.

#### Information and Referral

- Information on criminal statutes and victim rights.
- Referral to crime victim services and other related agencies.

### Assistance in Navigating the Criminal Justice System

- Information about procedures and practices of all aspects of the criminal justice system.
- Explanation of the roles of law enforcement, prosecutors, judges, and others.

### Investigations

- Investigations of crime victim rights violations and mistreatment.
- Information and explanations of agency actions.

### Outcomes

- Determination of whether mistreatment or victim rights violations occurred.
- Documentation of findings and a report to involved parties.
- Recommendations to the subject agency to correct errors and improve response to victims.

## A Time of Transition

As authority transferred to OJP in 2003, the CVJU strove for a seamless transition and a continuation of the same level of service to victims and members of the criminal justice system. The success of this effort is reflected in the fact that the caseload statistics in the past two years have remained comparable to the years prior to the reorganization.

In the past decade, for example, there was an average of over 1,500 contacts annually. In the last two years, the CVJU has averaged approximately 1,700 annual contacts.

Although the number of formal assists decreased over the past five years, the average number of formal investigations remained consistent. In the three years preceding the transition, the OCVO averaged 46 full case investigations per year. Similarly, in the past two years, the CVJU averaged 46 investigations per year.

The transition brought with it a shift of responsibility for training on victim issues. OCVO routinely provided trainings to the public, advocates, and criminal justice personnel. Currently, state training and outreach on victim rights and issues is coordinated through OJP's

Training and Communications Unit. This unit conducts trainings and provides materials throughout the state on a variety of issues including victim rights, financial compensation, and the CVJU.

Overall, the transfer of functions to the DPS has been successful. The CVJU continues to be a resource for both victims and criminal justice professionals. Victims continue to be assisted and served through the complaint process. Professional trainings on victim issues continue to be offered throughout the state. And lastly, the CVJU staff works in an environment that is devoted to victim issues and is kept up-to-date on victim issues at both the state and federal level.

## Conclusion

We have come to a time when victim rights are well-recognized and procedures to protect victims are well-established. Yet, as is often the case in governmental institutions, these procedures are not always followed, nor are contacts with victims always at a level of professionalism we expect and desire. The CVJU remains a place where citizens can make a complaint about criminal justice professionals and agencies. With investigation and fact finding, followed by conciliation, mediation, education, and persuasion, the CVJU seeks to give a voice to victims and improve the justice system's approach and response to victims of crime.

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*“The quality of our criminal justice system is reflected by how it treats its victims. Victims’ suffering should not be compounded by an unresponsive criminal justice system. The Crime Victim Justice Unit serves to ensure that all victims are treated appropriately.”*

Commissioner Michael Campion  
Minnesota Department of Public Safety

## The Vision

The Crime Victim Justice Unit (CVJU) strives to achieve just, fair, and equitable treatment of crime victims and witnesses by providing a process to question the actions of criminal justice agencies and victim assistance programs within the State of Minnesota. The CVJU has the authority to investigate decisions, acts, and other matters of the criminal justice system so as to promote the highest attainable standards of competence, efficiency, and justice for crime victims. The actions of the CVJU are guided by impartiality, confidentiality, and respect for all parties.

## The Mission

The Crime Victim Justice Unit works to:

- Ensure compliance with crime victim rights legislation.
- Prevent mistreatment of crime victims by criminal justice agencies.
- Provide information and referrals to victims and criminal justice professionals.
- Amend practices that are unjust, discriminatory, oppressive, or unfair.
- Improve attitudes of criminal justice employees towards crime victims.
- Increase public awareness regarding the rights of crime victims.
- Encourage crime victims to assert their rights.
- Provide crime victims a forum to question the actions of criminal justice agencies and victim assistance programs.

## CVJU Statistics

### Maintaining the Data

The CVJU maintains its case statistics through a database called the Ombudsman Case Management System (OCM). OCM has been in place since 2000, and, as a result, the unit is able to analyze current caseload statistics as well as trends in cases for the past five calendar years. In addition to OCM, the CVJU tracks all contacts with victims, members of the criminal justice system, victim-serving organizations, and the public. Unless indicated otherwise, the statistics presented here are for the biennium 2003-04.

### Inquiries to the CVJU

Inquiries to the CVJU come most frequently from victims. Sometimes victims are simply looking for information or resources and the CVJU assists them by providing basic information about the criminal justice system and their rights as a victim. At other times, victims have questions regarding the status of the criminal matter in which they are involved and the CVJU provides assistance in getting case-specific information as well as by connecting them to advocates in their area.

The CVJU also routinely handles inquiries from members of the criminal justice system about victim rights, resources, and specific cases. Finally, the CVJU responds to inquiries from members of the public who are seeking either general information about the criminal justice system and victim rights, or referrals to other appropriate resources.

In the biennium 2003-04, the CVJU had 3,453 contacts. The 12-year average for OCVO and CVJU is 1,548. The Chart below reflects the number of contacts with victims, members of the criminal justice system, interested organizations, and members of the public.

**Contacts to OCVO and CVJU**



### Opening a Formal Case

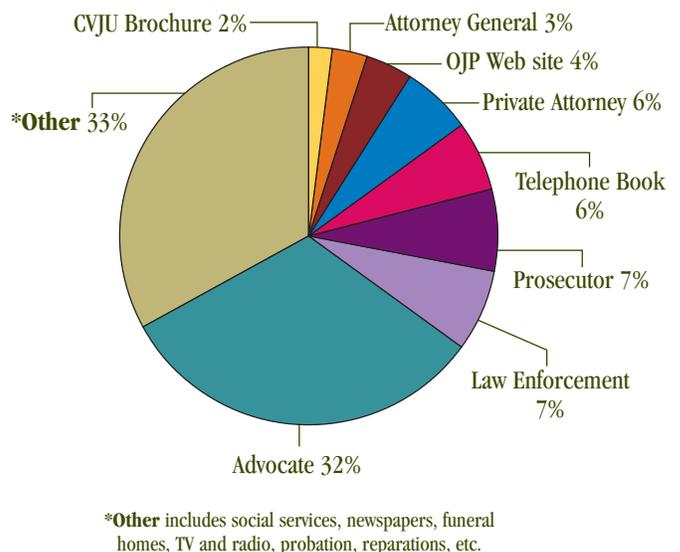
For those victims who raise concerns that cannot be resolved quickly over the telephone or handled by referring them to appropriate resources, a formal case is opened. In these cases, victims fill out a complaint form (available from local advocates, the OJP office, and on the OJP Web site) describing their problem and providing authorization for the CVJU to investigate their complaint. In 2003-04, the CVJU handled over 200 cases that required either intensive assistance or a full investigation of the complaint. These cases are in addition to the many instances of informal assistance that did not warrant opening a case file.

Since 2000, 69 percent of all formal cases opened were handled as an “assist” and 31 percent were handled as an investigation. In the past two years the proportion of investigations to assists has increased, however this is only a reflection of a change in case management practice and not a dramatic change in the number of victims or the nature of their complaints.

### How the Victim Found Out About CVJU

The most common way that victims find out about the CVJU is through a victim service provider. A third of the victims who submitted a complaint form report that they heard about the CVJU from a victim service provider.

**Complainant Referred By**



## Location

The CVJU is contacted by victims from all over the state, with the majority of formal cases originating from areas outside the seven-county Minneapolis-St. Paul metropolitan area. Even though the metro area constitutes 54 percent of the state's population<sup>1</sup>, only 39 percent of the 2003-04 cases were from counties in the metro area.

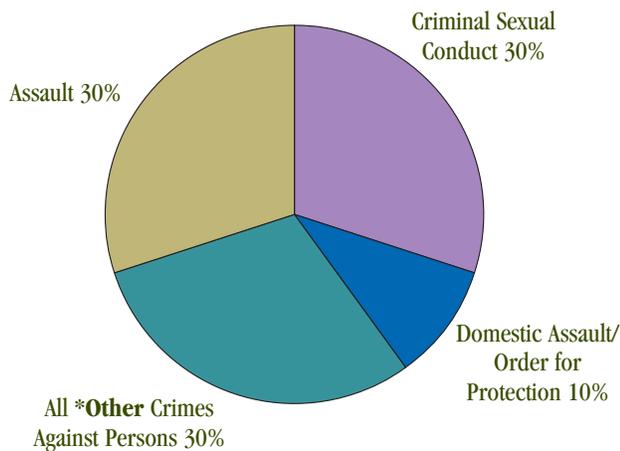
### County From Which Complaint Originated

	Percentage
Seven County Metro Area	39%
All Other Counties	61%
<b>Total</b>	<b>100%</b>

## Crime Type

The vast majority of cases opened (82 percent) involved a crime against a person. Of these, 31 percent involved an assault and 30 percent involved a criminal sexual conduct crime. Eighteen percent of cases opened involved a crime against property; of these, the most common types of crime involved were auto theft, forgery/fraud, and motor vehicle accidents.

### Types of Crime Against Persons



\*Other includes homicide, suicide, hit and run personal injury accidents, harassment, etc.

## Subject of the Complaint

As past years have shown, the vast majority of the subjects of investigations are either a prosecutor's office or a law enforcement agency: 55 percent of the complaints concerned a police department or sheriff's office, and 40 percent of the complaints concerned a prosecutor's office. The table below shows the subjects associated with complaints investigated by the CVJU.

### Subject of Complaint

	Percentage
County Attorney's Office	32%
City Attorney's Office	8%
Police Department	41%
Sheriff's Office	14%
Other	5%
<b>Total</b>	<b>100%</b>

## Type of Complaints

The CVJU investigates complaints of victim mistreatment and violation of statutory victim rights under Minnesota Statutes chapter 611A. Mistreatment occurs when a public body fails to act in accordance with its mission or responsibilities. It includes situations in which there is unreasonable delay, rude or improper treatment of victims, refusal to take a report of a crime, inadequate investigation, and the failure to prosecute. Minnesota Statutes chapter 611A specifically provides for notices to victims at various stages of the process, opportunities for victims to participate in the prosecution process, notice of release of an inmate, and financial compensation for losses related to the crime.

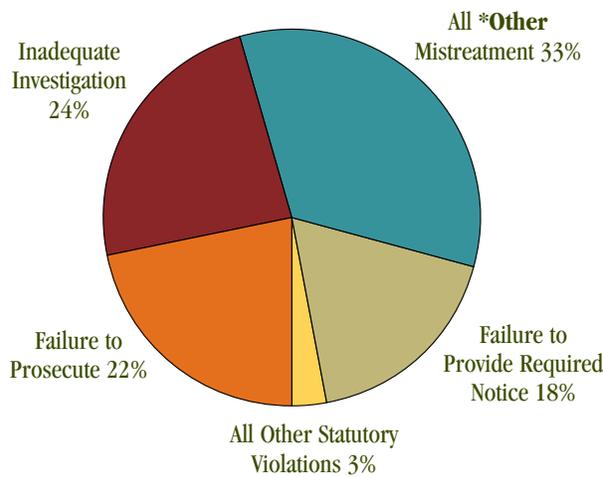
<sup>1</sup> According to 2000 U.S. Census.

Seventy-nine percent of all complaints alleged by victims involved some type of victim mistreatment and 21 percent allege a statutory rights violation.

The most common type of complaint brought by victims (24 percent) alleged an inadequate investigation by a law enforcement agency, followed by a failure to prosecute a case (22 percent.)

In cases in which the complaint is a failure to prosecute, the end result typically is either that charges are ultimately filed or that the CVJU makes a determination that the complaint is unsubstantiated. Given the broad discretion afforded prosecutors in charging cases, the CVJU refrains from challenging prosecutorial discretion unless it is determined that the discretion is abused.

## Complaint Type



\*Other includes insensitive or rude conduct toward victims, failure to return calls, conflict of interest, failure to return personal property, lost sexual assault kit, retaliation, inaccurate inmate release information, etc.

## Result of an Investigation

As a result of an investigation into victim complaints of mistreatment or statutory violations, the CVJU may make one of the following conclusions regarding each complaint:

### Substantiated complaint:

There is credible evidence that the alleged act or omission occurred that constituted a statutory violation or victim mistreatment.

### Unsubstantiated complaint:

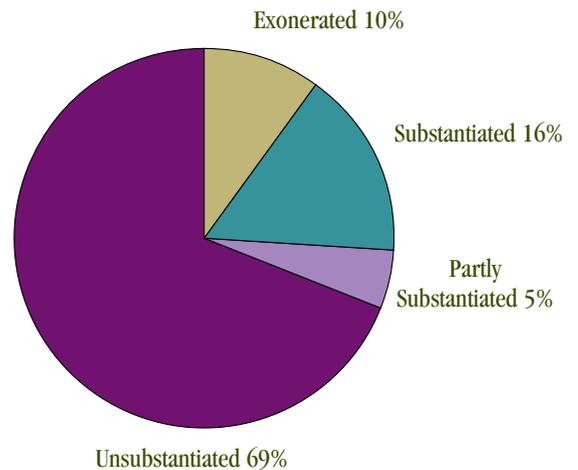
There is insufficient evidence to establish that the alleged act or omission occurred that constituted a statutory violation or victim mistreatment.

### Unfounded complaint:

The CVJU determines that the allegation is either false, inherently improbable based on the evidence, or does not constitute a violation. In these cases, the agency or individual is exonerated.

Of those investigations that progressed to a final determination and findings, 69 percent of the complaints were determined to be unsubstantiated, 21 percent were determined to be either substantiated or partly substantiated, and in 10 percent of the complaints the subject of the complaint was exonerated.

## Complaint Findings Following an Investigation



## Case Examples

### Reporting Car Theft

A victim called the CVJU upset that a law enforcement agency would not take her report of a stolen vehicle. The car had been taken by an ex-boyfriend and when she attempted to report the car stolen, the officer told her that the department had a policy about not taking reports in domestic situations until 30 days had passed. The CVJU contacted a commander in the department and learned that no such policy existed and was able to refer the victim to the commanding officer who offered to take the report directly.

### Recovering Stolen Property

A burglary occurred at the victim's home where stereo and hunting equipment were stolen. After almost a year, the victim filed a complaint with the CVJU because some of his property had been recovered in a drug bust but it had not been returned to him by the law enforcement agency. This case was complicated by the fact that the theft occurred in a rural county and the stolen property was recovered in the metro area, creating significant cross-jurisdictional issues. After numerous phone calls and letters from both the victim and CVJU, the property was finally returned to the victim, just days before it was scheduled to go to auction.

### Failure to Provide Victim Information Card

Historically, a common complaint from victims is the failure of law enforcement officers to provide the victim rights information card at the time of initial contact as required under Minnesota Statutes section 611A.02, subdivision 2(b). Sometimes the law enforcement agency is misguided as to their statutory obligations and the CVJU clarifies the requirement and recommends they change their policy and understanding of the mandate. Other times, the failure to provide a card is due to an inadvertent oversight, rather than a systemic problem within the department.

Some of the complaints brought to the attention of the CVJU in the last two years arose out of unusual contexts, for example: no card provided to victim following a hit-and-run traffic accident; no card sent to a mother of a child sexual abuse victim who lives out of state; and no card given to a victim who was incarcerated at the time of the crime. In each of these situations, the failure to provide this critical information to the victim at the beginning of the case led to additional problems and frustration for the victim.

### Assisting Criminal Justice Professionals

The CVJU routinely receives calls from members of the criminal justice system seeking a range of information and assistance. For example, the CVJU received a call from a county attorney's office related to a criminal sexual conduct case that had occurred over four years ago. The victim had filed a complaint two years ago because the case was never charged and she felt she was not getting a response from the county attorney. At the time, the complaint of mistreatment was substantiated. Yet, charges were still never filed against the suspect. Recently, the county attorney's office decided to pursue charges, but now was unable to locate the victim. After being contacted, the CVJU reviewed the old case file, found the victim living in another state, and informed her of the county attorney's actions. The victim was very happy that the case was finally moving forward and she remains committed to participating in the prosecution.

The CVJU also receives calls from members of the criminal justice system seeking help with victims. Prosecutors and law enforcement officers call for clarification of statutory obligations. They also refer victims to the CVJU for assistance in explaining the criminal justice process.

Perhaps the most common type of assistance provided is updating law enforcement agencies' victim notification cards. In the past two years, the CVJU updated cards for over 30 law enforcement agencies.

## Troubling Practices

The CVJU often concludes that technically there has been no statutory victim rights violation or victim mistreatment, and yet still finds the facts of the case troubling, especially when victims have suffered adverse consequences. In these situations, the CVJU identifies the problematic circumstance and its impact, and makes suggestions for change to the agency that is the subject of the complaint.

For example, the father of a child sexual assault victim was upset that the incarcerated offender had his time in jail reduced through participation in a jail work program. As a result, the offender was released sooner than had been anticipated by both the father and the offender's probation officer. Given the facts of the case, the CVJU could not make a determination that there had been a statutory violation or victim mistreatment. The CVJU nonetheless found the situation troubling and made suggestions for improving the communication to victims of the possible impact of sentence-to-service and jail work programs on actual time served. At the CVJU's encouragement, the local criminal justice coordinating workgroup reviewed this case and also identified the need for improved communication.

## Cases of Homicide And Suicide

A significant portion of the CVJU caseload stems from complaints related to the death of an individual, either by homicide, suicide, or accident. The death may have occurred months, years, or even decades ago. Family members contact the CVJU in the hopes of having the

law enforcement agency reopen the investigation, or to establish that the death which has been ruled accidental or a suicide is actually a homicide.

For example, the CVJU recently investigated the complaint from a family alleging that the law enforcement agency had done a poor investigation of the death of a family member and had improperly determined it to be accidental. A review of the investigative file revealed that the law enforcement agency had actually conducted a thorough investigation. The CVJU conveyed this finding to the family, as well as the police chief's offer to sit down and discuss the case and the family's concerns.

In another case, the mother of the victim believed her son did not commit suicide, as she had been told by the officer, and that his death was either accidental or a homicide. A determination of death by suicide was very upsetting to the mother because of her religious beliefs. After examining the case, the CVJU concluded that the police investigation had properly ruled out homicide and that the medical examiner had actually determined the death to be accidental. This information provided great relief to the mother.

Family members also contact the CVJU because of their frustration in the delay in charging the known suspect in a case. A grandmother contacted the CVJU in 2004, upset that the person who murdered her granddaughter in 2003 had not been charged. One week after the CVJU contacted the county attorney's office, and 12 months after the murder, the county attorney filed second degree murder charges against the suspect.

## Victims in Minnesota

### Support for Crime Victims

The State of Minnesota provides grants to over 150 victim service organizations across the state. These organizations provided services to over 130,000 victims in fiscal year 04.

The state also provides financial compensation to victims of violent crime through the Crime Victim Reparations Board. In fiscal year 04, the program received 1,658 claims and distributed over \$3 million in compensation for losses related to the crime such as funeral and burial expenses, medical costs, and loss of support.

Victims of crime can also seek financial assistance through the Emergency Grant Program. Emergency fund grants ranging from \$1,000 to \$5,000 are awarded to 70 grantee programs annually for the emergency needs of victims.

### Crime Victimization in Minnesota

According to the Bureau of Criminal Apprehension, the crime index<sup>1</sup> in Minnesota totaled 172,666 offenses during 2003, which was a decrease of 2.5 percent from 177,219 offenses in 2002. The crime rate represented 3,440 per 100,000 in population for 2003. Violent

crime in Minnesota (which represents 8 percent of all crime index offenses) increased by 4.3 percent from 2002 to 2003.

### How to Find Out About Crime Statistics in Your County

The Office of Justice Programs Web site ([www.ojp.state.mn.us](http://www.ojp.state.mn.us)) contains a section devoted to statistics on crime and crime victims. On that site persons can connect to state-generated data related to reported crime, specific crimes, court cases, and county-specific crime.

### Improving Notification to Victims

VINE (Victim Information Notification Everyday) is an automated system that provides victims information and release notification on offenders housed in state and county facilities. VINE, which started in 2001, is continuing to be implemented in counties across the state with completion due in 2005. This system not only provides accurate and timely information to crime victims regarding the status of the offender, it is also a useful tool for victim service professionals, law enforcement and other allied professionals. Victims can register with VINE or find out more about the system by going to [www.vinelink.com](http://www.vinelink.com).

The commissioner shall have the authority to . . . investigate decisions, acts, and other matters of the criminal justice system so as to promote the highest attainable standards of competence, efficiency, and justice for crime victims in the criminal justice system.

Minnesota Statutes 611A.74, subdivision 1

<sup>1</sup> The crime index consists of eight major criminal offenses used to evaluate changes and trends in amounts of crime over designated periods of time. Minnesota Crime Information 2003, Bureau of Criminal Apprehension, Criminal Justice Information Systems, Uniform Crime Report, p. 11.

## Brief History of Victim Rights in Minnesota

Over the past 20 years, victim rights have expanded and strengthened as the legislature continues to address the needs of victims in the criminal justice system. The rights related to notification, participation, protection, and financial compensation continue to grow and add stability to the victim experience. These rights have also improved the criminal justice system's response to crime victims. Below is a list of some of the enhancements that have occurred in victim rights legislation.

**1974**

Creation of the Minnesota Crime Victims Reparations Board to provide financial compensation to victims of violent crime.

**1983**

Minnesota legislature enacts comprehensive crime victim rights legislation (Minnesota Statutes chapter 611A).

**1984**

Governor-appointed task force conducts public hearings in seven Minnesota cities to listen to concerns and determine needs of victims of crime. Testimony taken from victims and victim service providers resulted in a clear mandate for a voice in the criminal justice system.

**1985**

Minnesota Legislature establishes the Office of Crime Victim Ombudsman (now the Crime Victim Justice Unit) to ensure statutory protections for crime victims and to provide a centralized, comprehensive source of information and referrals for crime victims.

**1986**

OCVO officially opens as the first crime victim ombudsman in the nation.

**1986**

New victim legislation passed ensuring additional rights of notification and participation.

**1988**

Crime victim rights statute amended to include specific provisions related to domestic violence cases.

**1988**

Right to give a victim impact statement becomes law.

**1990**

Enhanced legal protections for victims of harassment.

**1991**

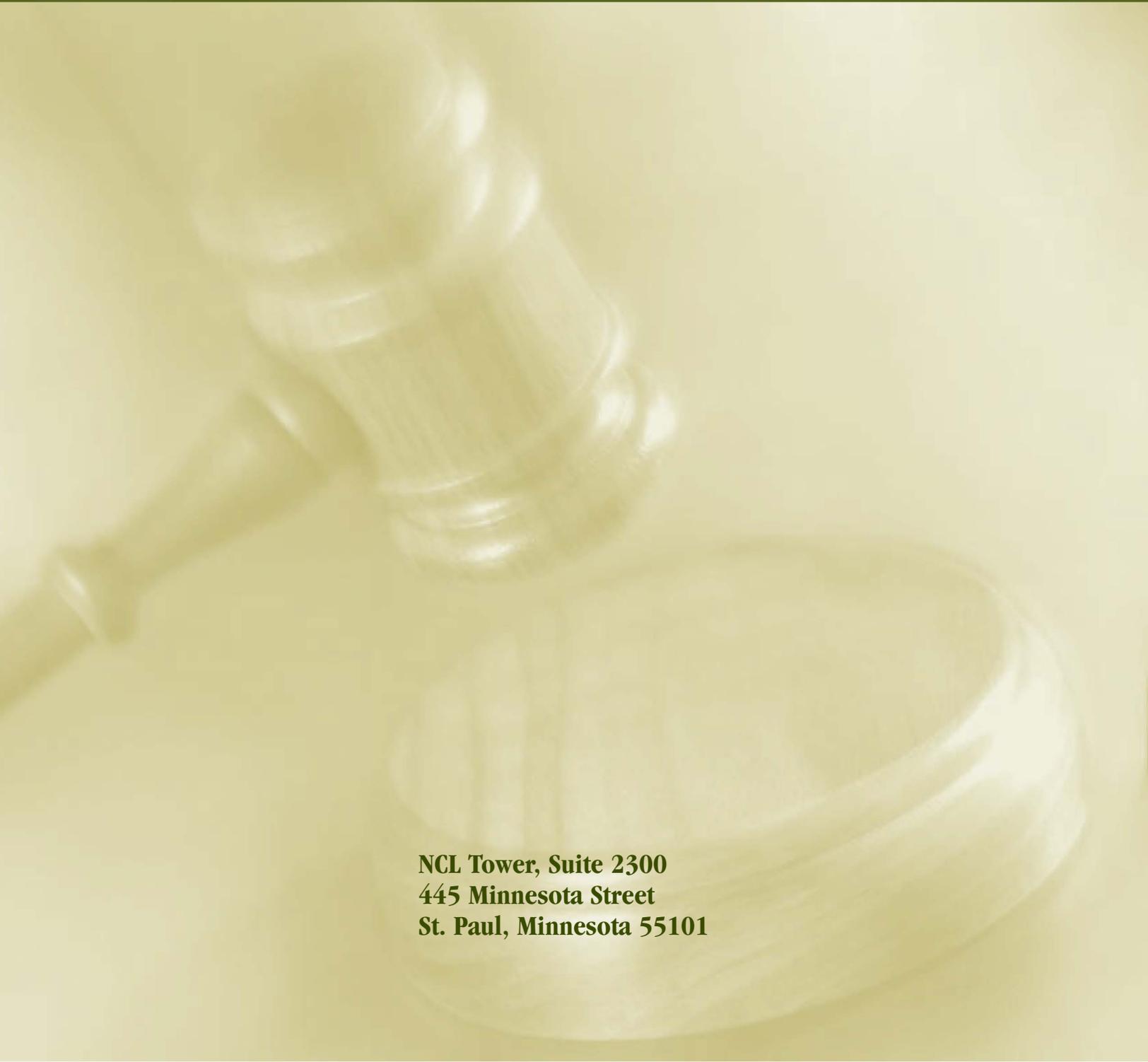
Additional rights of notification are added related to prosecution and offender release.

**1997**

Sex offender notification law goes into effect.

**2003**

The OCVO is renamed the Crime Victim Justice Unit and incorporated into Office of Justice Programs as part of state-wide reorganization.



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