

# Crime Victim Justice Unit

2005–06  
Biennial Report

State of Minnesota  
January 2007



# Crime Victim Justice Unit

## 2005–06 Biennial Report

Prepared by:

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Minnesota Office of Justice Programs

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## Office of Justice Programs

January 2007

Dear Governor Pawlenty and Members of the Minnesota Legislature:

The Legislature created the Office of Crime Victim Ombudsman (OCVO) in 1985 with the mission to investigate complaints of statutory victim rights violations and victim mistreatment. In 2003, the OCVO's responsibilities were assumed by the Crime Victim Justice Unit (CVJU), a unit of the Office of Justice Programs in the Department of Public Safety. Since that time, the CVJU has sought to uphold the rights of crime victims and ensure the fair treatment of victims in the criminal justice process.

Pursuant to Minnesota Statutes section 611A.74, subdivision 6, the CVJU submits this biennial report for your consideration. The report provides an overview of the CVJU and information reflecting the work of the unit during 2005 and 2006.

Over the past twenty years, the need for victim rights has become well-established and the state of Minnesota has demonstrated a continuing commitment to victims through ongoing enhancement of statutory rights and protections, as well as support of victim services. Oftentimes, however, victims in the criminal justice system still face the situation where their rights are not upheld and their needs are overlooked. The CVJU, authorized with a unique oversight function, has the ability to look into those situations where victims feel their rights have been violated or they have not been treated fairly.

As this biennial report indicates, the need to ensure compliance with victim rights in Minnesota still remains. The CVJU will continue to strive to make criminal justice organizations more responsive to victim needs and more adherent to the statutory victim rights under Minnesota Statutes chapter 611A.

Respectfully submitted,

A handwritten signature in black ink that reads "Suzanne Elwell". The signature is written in a cursive style.

Suzanne Elwell  
Director, Crime Victim Justice Unit

## Overview

### Introduction

Minnesota is one of a handful of states with an organized victim rights compliance effort. The Office of Crime Victim Ombudsman (OCVO), which opened its doors in 1986, was established with the recognition that having a good statutory scheme of victim rights is not enough; what also is needed is a mechanism to ensure that those rights are upheld. Since the CVJU assumed the responsibilities of the OCVO in 2003, the work to ensure the just, fair, and equitable treatment of crime victims has continued.

### CVJU Activities

Most victim contact with the CVJU starts with a telephone call. With its two-person staff, the CVJU handles a high volume of calls from victims seeking help with problems including difficulty getting information about a case, concerns about the manner in which the investigation was conducted, rude or inappropriate treatment by criminal justice professionals, or seemingly arbitrary decisions in their case.

The unit handles these telephone inquiries in several different ways. Sometimes victims just need basic information about the criminal justice system and their rights as victims. Often, they just need to be connected to a local advocate. At other times, victims are confused about what is happening in their case or are having difficulty connecting with the right person at an agency. In these situations, a few clarifying questions and a few calls by a CVJU investigator is usually all that is needed to help this victim along.

For those victims who raise concerns that cannot be resolved quickly over the telephone or handled by referring them to appropriate resources, the CVJU will open a case, either as an investigation or as an intensive "assist."

Under Minnesota Statutes section 611A.74, the CVJU has broad powers to investigate "elements" of the criminal justice system, including law enforcement agencies, prosecutors, probation departments, and court administration, as well as victim advocacy programs and the state reparations program. At the conclusion of an investigation, the CVJU determines whether there has

been mistreatment or a victim rights violation. In those cases where a complaint is substantiated, the CVJU will make recommendations to the agency for improving its treatment of victims. Oftentimes, this is not necessary because the subject agency has already made policy or procedures changes to address the problem by the time the investigation has concluded.

### Our Approach

Although Minnesota's compliance effort no longer carries the title of ombudsman, it operates under the same principles. That is, the CVJU provides an avenue of redress for citizens to complain about their government. When conducting investigations, the CVJU takes a neutral role. The CVJU is not an advocate for the victim or a defender of bureaucracy, but is an advocate for fairness in the system.

As we listen to victims' concerns, complaints, and confusion, we know that victims are frustrated with how they are treated and the limitations of the criminal justice system in addressing their victimization. We take the time to help them understand the reality of the system, answer their questions, suggest ways they can advocate for themselves, and also suggest ways they can complain to the agency about how they were treated.

A CVJU investigation most often leads to a finding that the subject agency acted appropriately. When we do uncover problems, the CVJU does not take a punitive stance, but rather seeks to work with an agency to find solutions to problems. What we find is that most errors made by agencies are not deliberate, but rather a result of inadvertence, lack of training, or lack of information or resources. Moreover, we are gratified to find that most agencies understand their statutory obligations and are committed to ensuring that victim rights are upheld.

### Evaluation

In 2005, the CVJU developed a survey as part of an ongoing effort to assess the services provided by the unit. This survey was distributed to all complainants and subject agencies in cases in which there was an investigation. Survey respondents were asked about their knowledge of the CVJU prior to the investigation, their treatment by CVJU personnel, and their understanding and satisfaction with the outcome. Respondents were also asked to provide written comments.

Although the number of individuals responding to the complainant survey was small, a few observations can be made regarding their responses. First, it is clear that the complainants were either very satisfied with the process or very dissatisfied. The frustration these dissatisfied victims felt toward the criminal justice professionals often extended toward the CVJU as well when they did not get the result they wanted. Second, even with this frustration, most of the respondents reported that they felt the staff was respectful and communicated with them in a way they could understand.

With regard to the subjects of the complaints, these agencies provided uniformly favorable responses regarding their experience with the CVJU.

## Conclusion

Victims seek the help of the CVJU when they feel that the criminal justice system has failed them. Sometimes we can reassure them that their experience is not unique, that their rights have been followed, and, as frustrating as it seems, their case is progressing appropriately. Other times we confirm that their sense of injustice with what has occurred is justified.

We know from our work that we have not yet reached the goal of compliance to victim rights, every time. Until then, the CVJU will continue to listen to victims, give a voice to their concerns, and strive to improve the justice system's approach and response to victims of crime.

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*“Minnesota has a long history of victim rights, including the commitment to being responsive to victims when they feel their rights have been violated or that their needs have been overlooked. The Crime Victim Justice Unit serves the unique function of ensuring that all victims are treated with the respect and dignity they deserve.”*

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

The CVJU routinely tracks statistics related to its case activity as well as contacts with victims, members of the criminal justice system, victim-serving organizations, and the public. The following is a summary of the CVJU's activity for the biennium 2005–06.<sup>1</sup>

### Inquiries to the CVJU

In the biennium 2005-06, the CVJU had 3542 contacts with victims, advocates, members of the public, and criminal justice professionals. The average over the past five years is 1819 contacts per year and over the past 15 years is 1580 contacts per year.

The majority of CVJU contacts (62%) is with victims, followed by criminal justice professionals and victim advocates (26%). About 4 percent of CVJU contacts is with offenders or defendants in a criminal matter and 8 percent is with other 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 describing their problem and providing authorization for the CVJU to investigate their complaint.

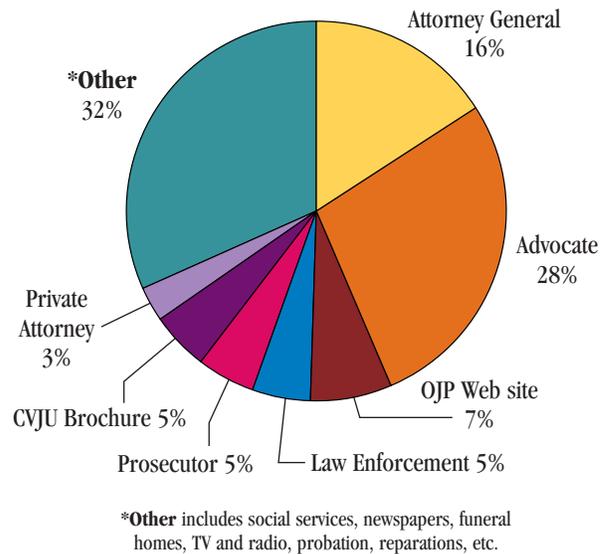
In 2005-06, the CVJU opened 130 new cases that required either intensive assistance or a full investigation

of the complaint. Because a number of cases carryover from the prior year, the number of cases actually open at some time in 2005 was 90 and in 2006 was 95. These cases are in addition to the many instances of informal assistance that did not warrant opening a case file.

### Referral Source

The most common way that victims found out about the CVJU was through a victim assistance program. Twenty-eight percent of the victims who submitted a complaint form report that they heard about the CVJU from a victim service provider. The second most common referral source (16%) was the Minnesota Attorney General's Office.

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>2</sup> only 36 percent of the 2005-06 cases were from counties in the metro area.

<sup>1</sup> 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 analyze trends in cases for the past seven calendar years. Because this report is being prepared prior to the end of the calendar year, the case load statistics for December 2006 are estimated.

<sup>2</sup> According to 2000 U.S. Census.

### County from Which Complaint Originated

	Percentage
Seven County Metro Area	31%
All Other Counties	69%
Total	100%

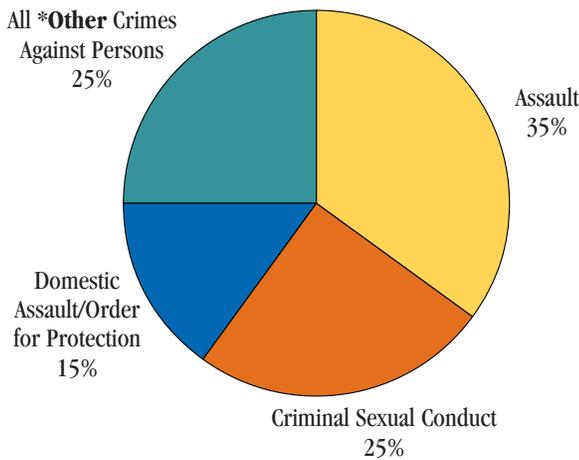
### Subject of Complaint

	Percentage
County Attorney's Office	36%
Police Department	34%
Sheriff's Office	14%
City Attorney	11%
Other	5%
Total	100%

### Crime Type

The vast majority of cases opened (80 percent) involved a crime against a person. Of these, 35 percent involved an assault and 25 percent involved a criminal sexual conduct crime. Twenty percent of cases opened involved a crime against property; of these, the most common types of crime involved were theft and motor vehicle accidents.

### Types of Crime Against Persons



\*Other includes stalking, homicide, criminal vehicular operation/homicide, harassment, suicide, etc.

### Subject of the Complaint

As in past years, the vast majority of the subjects of a complaint were either a prosecutor's office or a law enforcement agency: 49 percent of the complaints concerned a police department or sheriff's office, and 47 percent of the complaints concerned a prosecutor's office.

### Type of Complaints

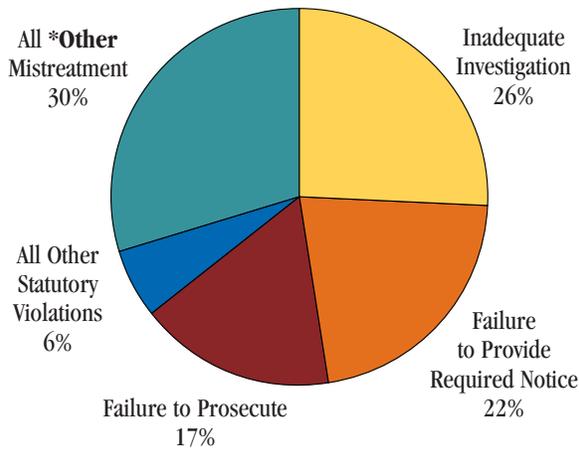
The CVJU investigates complaints of victim mistreatment and violation of statutory victim rights under Minnesota Statutes chapter 611A and other provisions. Mistreatment occurs when a public body fails to act in accordance with its mission or responsibilities. It includes situations in which there is unreasonable delay, rude or improper treatment of victims, refusal to take a report of a crime, inadequate investigation, failure to follow the law or the agency's own policies, and the failure to prosecute.

Regarding statutory violations, Minnesota Statutes chapter 611A specifically provides for notice 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.

Seventy-three percent of all complaints alleged by victims involved some type of victim mistreatment and 27 percent alleged a statutory rights violation.

The most common type of complaint brought by victims (26 percent) alleged an inadequate investigation by a law enforcement agency, followed by a failure to provide statutorily required notices to victim (22 percent) and failure to prosecute a case (17 percent).

## 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.

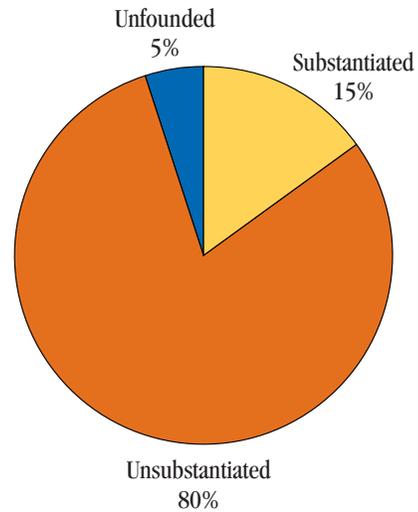
## Result of an Investigation

As a result of an investigation into the victim complaints of mistreatment or statutory violations, the CVJU makes one of three possible determinations regarding each of the complaints: substantiated, unsubstantiated, or unfounded. The CVJU will substantiate a complaint when there is credible evidence that the alleged act or omission occurred that constituted a statutory rights violation or victim mistreatment. An unsubstantiated complaint is one in which there is insufficient evidence to establish that the alleged act or omission occurred that constituted a rights violation or mistreatment. An unfounded complaint is one in which 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, 80 percent of the complaints were determined to be unsubstantiated, 15 percent were determined to be substantiated, and in 5 percent the complaint was determined to be unfounded and the subject of the complaint was exonerated.

In cases in which the complaint is substantiated, the CVJU makes recommendations to the subject agency in order to improve its services to victims. For example, the CVJU may recommend establishing new policies or procedures, training staff, revising their victim notification letters, or meeting with the victim. The response from the agency to these recommendations is communicated to the victim along with the CVJU findings report.

## Complaint Findings Following an Investigation



## Case Examples and CVJU Activity

### Waiting for the Call Back

Perhaps the greatest frustration expressed by victims when they contact the CVJU is the failure of criminal justice professionals, typically law enforcement and prosecutors, to return their calls. Sometimes a victim's expectation of when they should get a call back is a bit unrealistic; however, all too often the complaint from victims is that they leave message after message and no one returns their call. By the time they are in contact with the right person from that agency, they are already annoyed and frustrated, creating a strained and possibly confrontational relationship. A policy of promptly returning calls to victims goes a long way toward avoiding this situation and maintaining a positive relationship. This is true even when all there is to say is the matter is still being investigated or is under review.

### Recovered Stolen Vehicles

Victims of motor vehicle theft, having already dealt with the initial consequences of the loss of their vehicle, are shocked to find that the notification of their vehicle's recovery is accompanied by a price tag. It's a good news/bad news situation: *The good news is that we've found your car. The bad news is that you have to pay to get it out of our impound lot.*

Calls to the CVJU about this issue are a routine occurrence. One victim whose car was severely damaged by the thieves, decided to just leave his car in the impound lot because the value of the car was less than the accrued impound fees. He was told that the city could still get the accrued impound fees through his tax refund (via the state's revenue recapture program). Another victim told us she could not afford to pay both the impound fee and the loan on the car that was impounded. Ultimately, the city returned her car to the car dealership. Still another victim, whose car was stolen by her friend's son and used in the commission of a crime, was required to pay the entire fee for the time the car was impounded including the time the car was being examined for evidence. Similarly, a woman whose car was stolen for use as a getaway car was required to pay for the time the car was being examined for evidence. She was upset because payment of all the fees left her with \$5 in her checking account for the rest of the month.

## Assisting Advocates and Criminal Justice Professionals

The CVJU routinely receives calls from advocates and criminal justice professionals seeking information and assistance. For example, prosecutors and law enforcement officers call for clarification of statutory obligations; victim advocates call for help in identifying the statutory authority or to talk through a problem encountered by one of their victims. Advocates and criminal justice professionals alike will refer victims to us to talk about their concerns about what is occurring in their case, sometimes for another opportunity to hear how the process works, and sometimes just for a second opinion.

The CVJU also assists law enforcement agencies with updating their victim notification cards. In the past two years, the CVJU updated cards for 12 law enforcement agencies, and reviewed many others for compliance with the statutory mandates.

### “Unsubstantiated” Complaints and Secondary Outcomes

A finding that a victim's complaint is “unsubstantiated” does not necessarily tell the whole story in a case. Sometimes the fact that the CVJU has opened an investigation will prompt the subject agency to increase the attention given to a case such as a law enforcement agency resuming its investigation or the prosecutor reviewing the case file for possible charging.

In one case, the CVJU heard feedback from a local advocate who stated that after our investigation of a local police department's handling of a child sexual abuse case, the chief started attending the local coordinating committee and was taking steps to become more educated on the issue. In that case, the CVJU had concluded that all of the complaints made by the victim about that police department were unsubstantiated.

On the other hand, 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.

## Fatal Motor Vehicle Crashes

A problem long identified by the OCVO, and which continues to be routinely presented to the CVJU, concerns the outcomes in fatal motor vehicle crashes when the driver at fault had not been drinking or had not been driving in a manner considered to be grossly reckless. In cases of intoxication or egregious conduct, the driver could be charged with criminal vehicular homicide.

When those factors are not present, the drivers are often charged with misdemeanors such as careless or reckless driving, failure to yield, or a stop sign violation — with minor criminal consequences. Family members of the deceased are typically upset by what they see as a slap on the wrist for conduct that caused such tremendous loss and pain. Prosecutors are most often the target of their anger; however, the charging decision speaks more to the limitations of the existing statutory scheme rather than the prosecutor minimizing the severity of the conduct.

## Notification to the Victim

A great many of the complaints the CVJU receives concern the failure of criminal justice professionals to provide the notices required by Minnesota Statutes chapter 611A. In one case the CVJU substantiated the complaint of a statutory rights violation because the county attorney did not provide the notice of victim rights to deceased victim's family until five months after charges were filed.

In another case, a city attorney failed to send a notice to the victim that charges had been filed against the offender and when she contacted the victim advocate, she was told, mistakenly, that the city attorney's office was not handling the case. By the time the victim received notice of the charges through the probation officer, the defendant had already made an agreement with the prosecutor and entered his plea. In that case, the CVJU substantiated the complaint that the victim was not given the notice of victim rights by the city attorney. In addition, she also did not get notice of the plea agreement, and, as a consequence, did not get an opportunity to object to the plea agreement.

## Victims in Minor Traffic Crashes

A common scenario presented to the CVJU is the traffic crash case resulting in property damage, or even injury, in which the driver at fault is cited by law enforcement with only a minor status offense such as no drivers license or no insurance. The case enters the criminal justice system as a routine ticket case, and, depending

on the prosecutor's office, victims may or may not have a role in the court proceeding.

Some prosecutor's offices do a good job identifying victims in traffic accident cases, regardless of the actual charges filed, and make sure the victims receive the proper notification and have a chance to participate. This involvement is especially important for victims who wish to request restitution. Other prosecutor's offices take the position that if the offender is cited with a victimless crime, like driving without insurance, the office has no obligations toward the victim.

## Everyday “Assists”

There are many situations where a few steps taken make a big difference to a crime victim. Here are just a few examples of assistance provided by the CVJU:

- A shooting victim who tried to get a police report related to the case was told it didn't exist. After a few calls, the investigator was able to identify the case number and investigator, and gave instructions to the victim on how to obtain a copy of the report.
- A hearing-impaired victim reported being told that there were no assisted listening devices available at court. The CVJU provided the victim with a form to make a complaint to the state court administrator's office regarding his Americans with Disability Act complaint and referred him to the local court administrator to work on correcting the problem. The victim reported back that the problem was corrected by the next hearing.
- A victim whose purse was stolen called for guidance about what she should do to protect herself. CVJU staff provided her information on preventing and monitoring for both financial and criminal identity theft.

## Getting a Copy of the Police Report

In our calls with victims, the issue of getting a police report related to their case often comes up. Victims are confused about how to go about getting a copy of the report or are frustrated when a law enforcement agency or prosecutor's office refuses their request for a copy. In response to this common issue, the CVJU developed a guide called *How Do I Get a Copy of My Police Report* and posted it on the OJP Web site. The guide explains what law enforcement data is available to victims, and when, along with the statutory authority under the Minnesota Government Data Practices Act.

## Victims in Minnesota

### Support for Crime Victims

The State of Minnesota provides grants to over 160 victim service organizations across the state. The state also provides financial compensation to victims of violent crime through the Crime Victim Reparations Board and financial assistance to crime victims through an Emergency Grant Program.

As required by the Minnesota Community Notification Law, the OJP Training and Communications unit and the Department of Corrections (DOC) Victim Liaison provide victim input at End of Confinement Review hearings and provide post-conviction support for families at life review hearings conducted by the Minnesota DOC.

### Crime Victimization in Minnesota

According to the Bureau of Criminal Apprehension, the crime index<sup>1</sup> in Minnesota totaled 173,960 offenses during 2005, which was slightly higher than the 172,666 offenses in 2003. The crime rate represented 3,410 per 100,000 in population for 2005. Violent crime (murder, rape, robbery, and aggravated assault) increased by 11.5 percent from 2004 to 2005.

### Finding Victim Service Providers

The Office of Justice Programs Web site [www.ojp.state.mn.us](http://www.ojp.state.mn.us) includes a searchable directory of government and non-profit organizations in Minnesota that serve crime victims. The directory can

be viewed by service provider name, county, judicial district, and state-wide service providers.

### Offender Release 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. Implementation of the VINE system, which started in 2001, is now complete. Both Hennepin County and the Minnesota Department of Corrections are now a part of the VINE system. This system not only provides “real time” 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) or by calling 1-877-664-8463.

### Improving Services to Victims

The OJP Training and Communications Unit provides training to victim advocates and criminal justice professionals on issues including victim rights, special victim topics, cultural competency and non-profit financial management. Last year, more than 500 people attended training sessions. OJP also organizes an annual conference on crime victims for approximately 500 multi-disciplinary attendees. In August 2006, the first State Victim Assistance Academy was held in partnership with St. Cloud State University.

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 2005, Bureau of Criminal Apprehension, Criminal Justice Information Systems, Uniform Crime Report, p. 11.

## Brief History of Victim Rights in Minnesota

For the past 23 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.

**1988**

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

Right to give a victim impact statement becomes law.

**1983**

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

**1990**

Enhanced legal protections for victims of harassment.

**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.

**1991**

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

**1997**

Sex offender notification law goes into effect.

**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.

**2003**

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

**1986**

Office of Crime Victim Ombudsman (OCVO) officially opens as the first crime victim ombudsman in the nation. New victim legislation passed ensuring additional rights of notification and participation.

**2005**

The definition of "victim" is expanded to include family members of a minor, incompetent, incapacitated, or deceased person. Additional protection to victims against employer retaliation for taking time off to attend order for protection (OFP) and criminal proceedings.





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