



Government of Canada

Office of the Federal Ombudsman
for Victims of Crime

Gouvernement du Canada

Bureau de l'ombudsman fédéral
des victimes d'actes criminels

Heard. Respected. **Victims First.**
Écoutées. Respectées. **Les victimes d'abord.**



2009–10

Office of the Federal Ombudsman
for Victims of Crime

Annual Report



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Message from Sue O’Sullivan, Federal Ombudsman for Victims of Crime

Throughout my career in the police service, I saw first-hand the devastating impact that crime can have on victims and their families. What became clear over the years was that though no two victims were alike, almost everyone shared a common desire to be kept informed and to be heard.

For that reason, I am incredibly proud to have been appointed Canada’s Federal Ombudsman for Victims of Crime and, more importantly, to have been given the responsibility of giving victims a voice.

In collaboration with the victims who contact us, the federal government departments that serve them and the organizations across Canada that make it their mission to support victims, we will continue to find ways to address victims’ needs and concerns.

I look forward to the work ahead and the opportunity we have to make a difference.



Message from Steve Sullivan, Ombudsman responsible for fiscal year 2009-10

This past year has been, by far, the most successful in the short history of the Office of the Federal Ombudsman for Victims of Crime (OFOVC).

We continued to provide direct one-on-one assistance to victims who had questions or complaints, while at the same time forging ahead to make new, feasible recommendations to the Government of Canada on a whole host of important victim issues, including Internet-facilitated child sexual abuse and giving greater respect and support to victims of crime.

The first part of our work, helping victims directly, is such an important part of what we do. This year, as in the past, we were able to help victims who felt they had nowhere else to turn. We answered their questions, helped them find resources in their cities, and helped them resolve complaints they had about federal agencies. But just as importantly, we listened. We heard them. We asked questions, and we engaged with them on the issues that mattered most.

It was because of these victims, and the information we gathered from discussions with law enforcement and other victims' organizations, that I decided to focus on creating change in two key areas: Internet-facilitated child sexual abuse and strengthening the laws that protect and support victims.

As a result, this year we released our first two special reports: *Every Image, Every Child* and *Towards a Greater Respect for Victims in the Corrections and Conditional Release Act*.

Every Image, Every Child made nine recommendations to the federal government on how to address Internet-facilitated child sexual abuse. This is an issue that we know is growing at an alarming rate—in fact, some reports suggest that it has quadrupled since 2003. Not only is the volume of material increasing, but the images are getting more violent and the children younger. *Every Image, Every Child* was developed following discussions with a variety of important stakeholders familiar with the issue, such as law enforcement and non-profit organizations that assist child victims. The final report provided feasible, effective and thoughtful recommendations for how the Government could amend its laws and policies to help give authorities the tools they need to catch offenders and rescue children, to better understand the impact of new forms of abuse on children, to provide better support to the children who have been victimized, and to help reduce the problem by putting in place measures that will help reduce the material available.

Towards a Greater Respect for Victims in the Corrections and Conditional Release Act was released in March. The report urged the federal government to provide victims of crime with enhanced and legislated rights. It identified a systemic imbalance when it comes to the rights of the offenders versus the rights of the victims under federal law and made 13 recommendations for rebalancing the scales. The report emphasized the need to treat victims with compassion and respect, to proactively provide them with information about their rights and the offender who harmed them, to respect the important role they have to play in National Parole Board hearings, and to ensure that court-ordered restitution is paid.

Judging by the media attention, reaction from victims and stakeholders, and the dozens of invitations to present the findings of our reports across the country, it is clear that our recommendations struck a chord.

In addition to our special reports, the Office continued to push for broader systemic change, and I am so proud to say that we have seen results.

- In June, we recommended that the Government amend its laws to compel Internet Service Providers (ISP) to provide basic subscriber information to law enforcement in child sexual exploitation cases. This is an issue that has long been raised by law enforcement and victims advocates, and the Office was proud to help contribute its voice to pushing for positive change. That same month, the Government

announced proposed legislative amendments that would compel ISPs to provide this information in child exploitation and other crime cases.

- In March 2008, we made recommendations for enhancing the National Sex Offender Registry. Those recommendations were addressed in the Government's proposed Bill S-2, *An Act to amend the Criminal Code and other Acts (Protecting Victims from Sex Offender Act)*.
- Restitution has been a priority issue for the Office since its inception and one on which we have made numerous recommendations. As such, we were pleased to see victim restitution included as part of the Government's white-collar crime bill and the proposed reforms to the *Corrections and Conditional Release Act*.
- We advised the Minister of Justice that more needed to be done to educate judges about victim issues. In 2009, the Department of Justice committed to funding more education programs through the National Judicial Institute.
- We recommended, and talked publicly about, an enhanced commitment to charging and collecting victim fine surcharges—an offender fine that ultimately goes to help fund vital services for victims. The 2010 Speech from the Throne reflected our recommendations on victim fine surcharges by declaring they would become mandatory.

As my term comes to an end, I look back with satisfaction on the influence we have had on government policy and the difference that those changes will make in the lives of victims. Similarly, I am privileged to take with me all that I have learned from the individuals I have spoken to and met with, and am grateful for the help our Office has been able to give to victims who have experienced such challenges.

Recently, I spoke with a victim who lost a loved one to murder. She told me that our work had offered her a ray of hope, allowing her to be more productive and less angry. That feedback, and the difference we can make, is exactly why I took on this role and why I stand behind the Office's creation. As the Office continues to evolve, it must never lose sight of who it is working for and, ultimately, who it represents: Canadian victims of crime.

Finally, I would like to thank the staff who have made this all possible. The success of the Office is in large part due to the incredible staff I have had the privilege of working with. Most Canadians never get to see the hard work of our public servants, but I know first-hand a small group of dedicated people that we can all be proud of.

I wish all the best to the incoming Ombudsman and encourage the victims who contact us, our stakeholders and the media to give her all the same support and collaboration I was fortunate enough to receive.



In April 2010, the Ombudsman was honoured as a "Hero of the Fight" by the Kids' Internet Safety Alliance (Kinsa) for his tireless efforts in working to help fight for the protection and well-being of children.

Left to right: Kinsa Board Chair Bill Hutchison, Chair Waterfront Toronto's i-Waterfront Advisory Council; Steve Sullivan, Federal Ombudsman for Victims of Crime; Terry Power, President of Randstad Canada; and Paul Gillespie, President and CEO of Kinsa

OFOVC—A Voice for Victims

Mandate

The Office of the Federal Ombudsman for Victims of Crime (OFOVC) was created in 2007 to help victims of crime and their families by providing direct assistance, addressing complaints and ensuring that the federal government meets its responsibilities to victims of crime.

The Office provides assistance to victims both directly, through its toll-free victim-assistance line, and systemically, by pushing for policy and legislative change to enhance victims' rights.

The mandate of the OFOVC relates exclusively to matters of federal responsibility and includes:

- facilitating access of victims to existing federal programs and services by providing them with information and referrals;
- addressing complaints of victims about compliance with the provisions of the *Corrections and Conditional Release Act* that apply to victims of offenders under federal supervision, and providing an independent resource for those victims;
- enhancing awareness among criminal justice personnel and policy makers of the needs and concerns of victims and the applicable laws that benefit victims of crime, including to promote the principles set out in the *Canadian Statement of Basic Principles of Justice for Victims of Crime*; and
- identifying emerging issues and exploring systemic issues that impact negatively on victims of crime.



Working Directly with Victims

OFOVC's services to victims

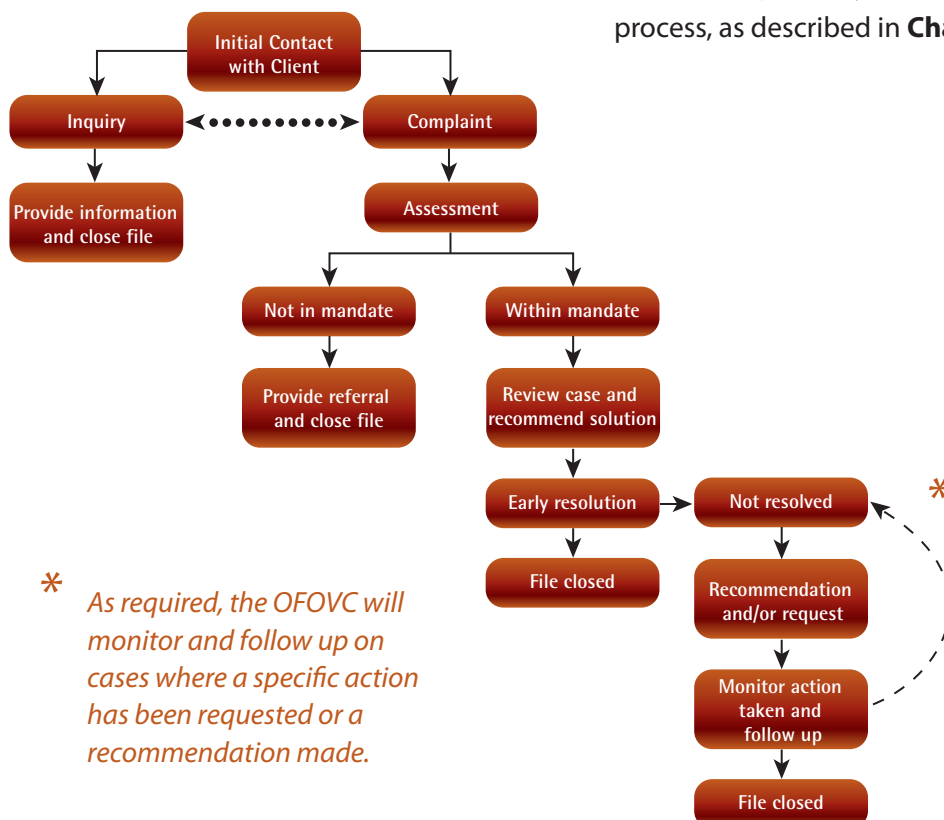
The OFOVC helps victims in two ways: individually and collectively.

- **Individually**—by helping victims directly every day, answering their questions and addressing their complaints. Victims can contact the Office directly through its toll-free victim-assistance line to speak with a bilingual Complaint Review Officer, or by email, fax or regular mail.

- **Collectively**—by reviewing important issues and making recommendations to the federal government on how to change its laws or policies to better support and assist victims of crime. These types of national, widespread changes ultimately help all victims of crime in Canada.

The OFOVC handles victim inquiries and complaints on a case-by-case basis. If a victim's concern falls outside of the Office's mandate, the OFOVC's Complaint Review Officer will provide him or her with the names and contact information for the agencies or organizations that would be best suited to assist that person. For all other cases, OFOVC's staff work closely with the victim to try to find achievable and effective solutions. For each complaint it receives, the OFOVC generally follows an established process, as described in **Chart 1**.

Chart 1.
OFOVC Case Management Process

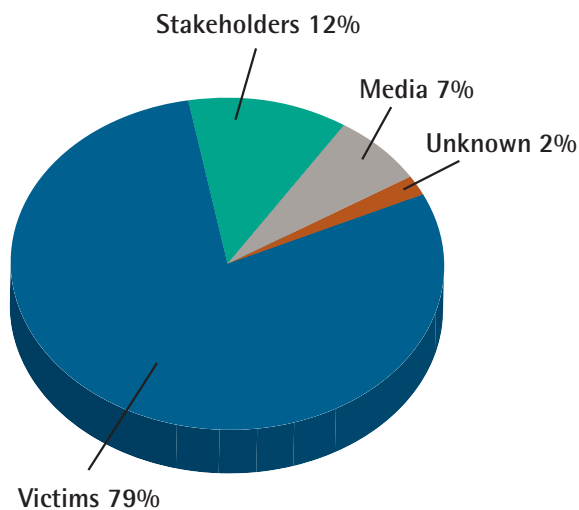


Talking with Victims

As a relatively new organization, one of the biggest challenges the Office faces is ensuring that victims are aware of the OFOVC and its services. OFOVC continued to make progress in this regard in 2009–10. In its third year, the number of Canadians contacting the Office continued to increase. Specifically, the number of files opened grew by more than 13 per cent.

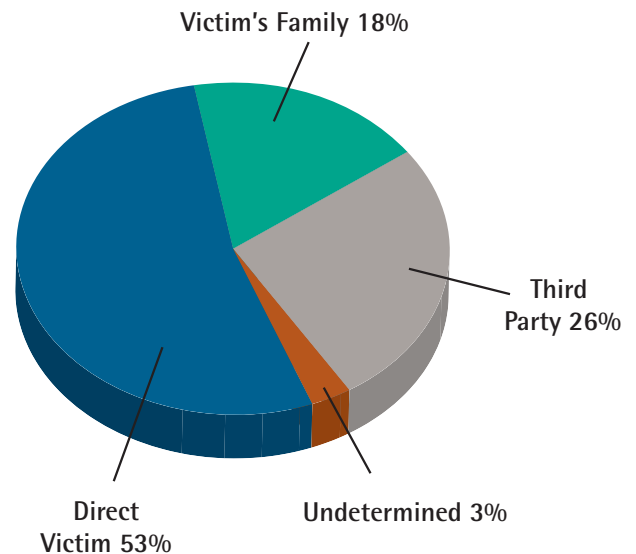
As shown in **Chart 2**, the majority of Canadians who contacted the OFOVC were victims (79 per cent), followed by stakeholders (12 per cent) and media (7 per cent).

Chart 2.
Total files opened April 1, 2009, to
March 31, 2010, by contact type
(n=474)



Of those who contacted the Office for assistance, **Chart 3** shows that the majority continue to be directly from victims (53 per cent). Third-party contacts were the second-most common type of individual to contact the Office. This group includes victim advocates or service workers calling on behalf of a victim, federal and provincial government partners, and others.

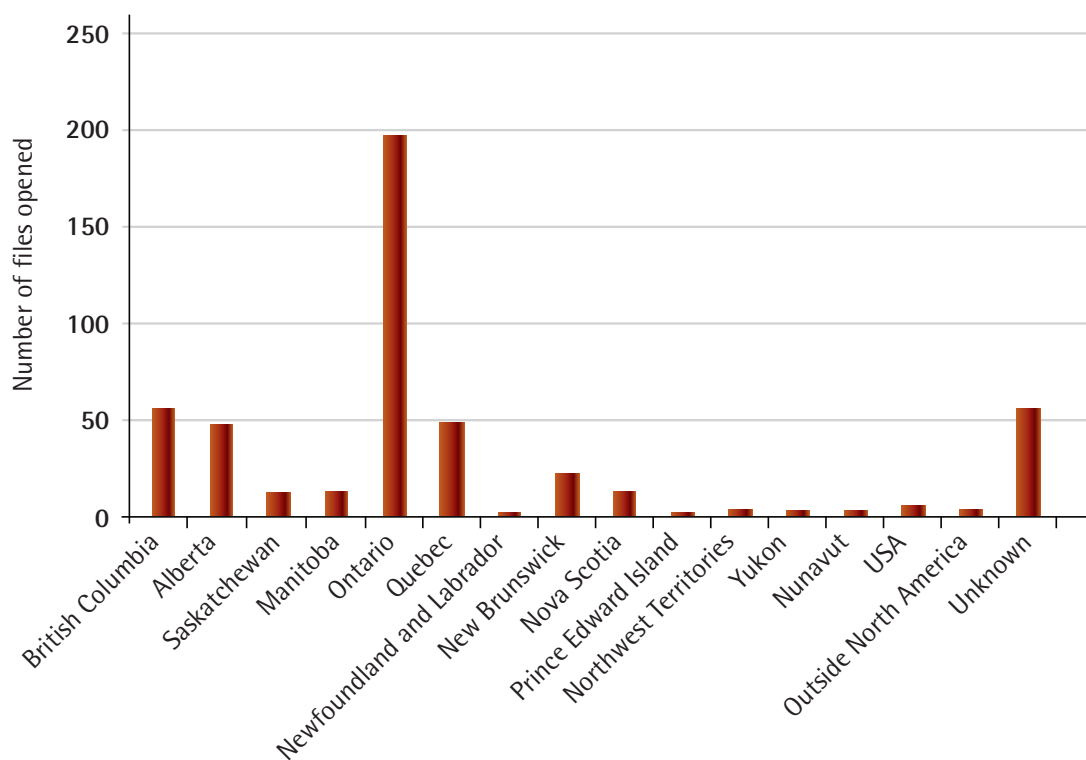
Chart 3.
Total files opened April 1, 2009, to
March 31, 2010, by type of individual



In 2009–10, the OFOVC was able to assist Canadians from a wider geographic area than ever before. As shown in **Chart 4**, for the first time since the Office was established, the OFOVC was contacted by citizens from every province and territory, including Nunavut and Yukon.

Chart 4.

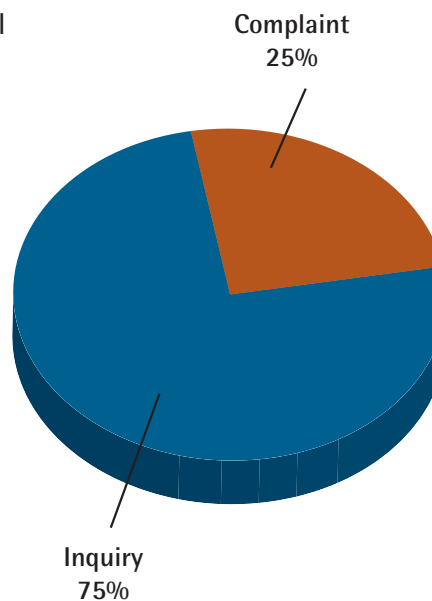
Total files opened April 1, 2009, to March 31, 2010, by location of individual



Inquiries remain the number one reason Canadians contact the OFOVC. This speaks to the complexities of the criminal justice system and the importance of OFOVC's role in providing assistance and referrals. **Chart 5** illustrates the breakdown of reasons for contact.

Chart 5.

Total files opened April 1, 2009, to March 31, 2010, by reason for contact



Learning from Victims

Direct contact with Canadians provides the Office with invaluable insight into the issues and challenges facing victims of crime. Based on this, the OFOVC may select priority issues for further review and, in some cases, make recommendations for change to the federal government.

In 2009–10, the Office heard most often from victims and Canadians who wanted to know more about our role and mandate. While this is consistent with the findings from 2008–09, there has been significant variation in top issues from the previous year.

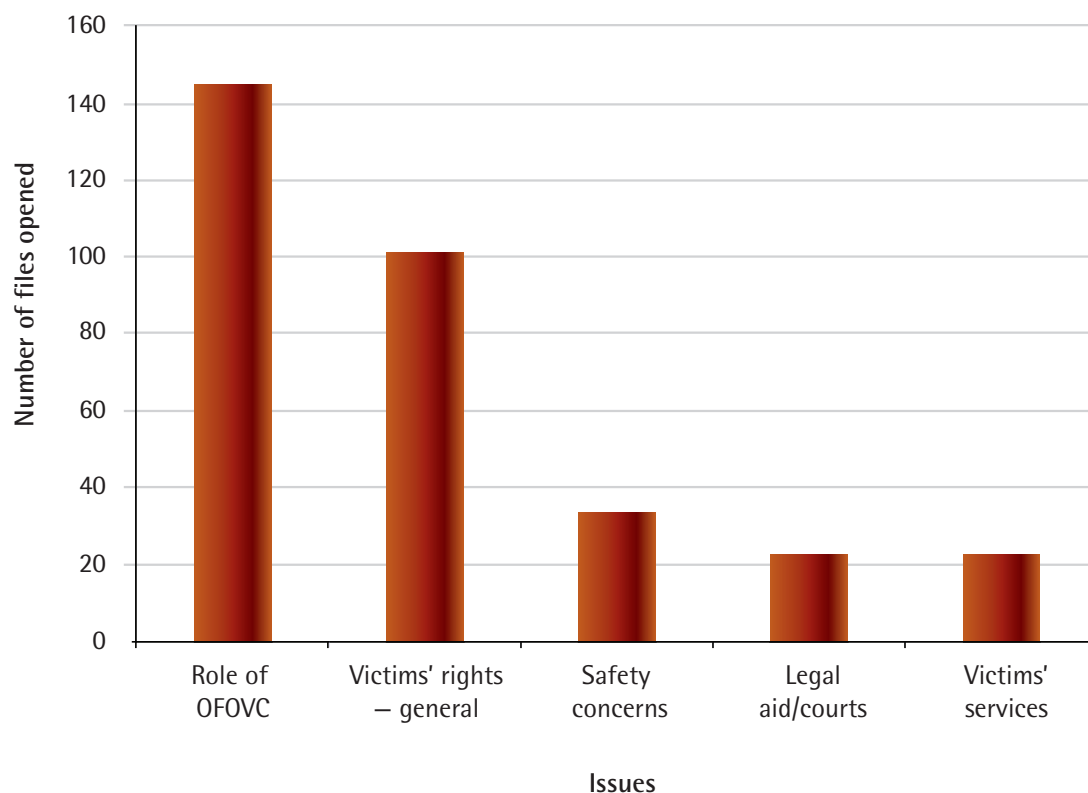
Examples of the types of complaints that could fall under each category:

Role of OFOVC: Contacts wanted to know more about what the Office does, how we can help, and how they can register a complaint.

Victims' rights—general: Contacts wanted to know what rights they had or to express their dissatisfaction with the rights accorded to victims in Canada.

Safety concerns: Contacts wanted information about measures they could take to protect themselves, the close proximity of an offender to their home or work, or how to intervene in an offender's case and make a victim impact statement.

Chart 6.
Top five issues victims contacted the OFOVC to discuss, April 1, 2009, to March 31, 2010



Legal aid/courts: Contacts were looking for legal advice or assistance, had inquiries and complaints about qualifying or accessing legal aid, or had questions relating to the court process or legal obligations.

Victims' services: Contacts had questions about services that are available to victims and how to access them, complaints about services that did not meet their needs, or requests to enhance existing or develop new victims' services.

Case studies

While a review of Canadians' most common questions and concerns helps to clarify the challenges that victims face, each case is unique. The generalized case examples below provide some greater insight into the complexity, sensitivity and importance of each unique case.

Case #1

J contacted the Office after learning that the offender who had sexually assaulted her and her two sisters was being released on full parole and would be housed directly behind her workplace.

J was upset that no consideration had been given to the offender's proximity and the impact of that placement on her personal safety and quality of life, especially in light of the extremely high probability of encountering the offender who had harmed her.

The OFOVC reviewed the victim's case and worked with the Correctional Service of Canada, the National Parole Board (NPB), the parole officer and regional federal government officials to resolve the situation. In the end, it was decided that the offender would not be transferred to the boarding house in question and that the NPB would review the offender's placement options.

J was extremely grateful that the situation had been resolved and expressed her gratitude in having access to an office like the OFOVC to assist victims in addressing their complaints.

Case #2

Parents of a homicide victim contacted the OFOVC to make a complaint about how the RCMP had handled the initial distress call relating to their son's murder. The parents felt that if the RCMP had acted differently, it was possible their son might have survived. They were also frustrated that they had been unable to obtain more information about the series of events resulting in their son's death.

The Ombudsman met with the family to discuss their concerns and then wrote to the RCMP and the Minister of Public Safety to request further assistance on behalf of the family. The RCMP was fully cooperative and agreed to meet with the family once an internal review had been completed.

The family expressed their appreciation for the support and assistance provided by the OFOVC.

“Direct contact with Canadians provides the Office with invaluable insight into the issues and challenges facing victims of crime.”



Awareness and Partnership Building

Outreach

In its third year, the OFOVC continued to build awareness of its services and mandate, choosing outreach opportunities that would maximize its ability to reach Canadians in the most efficient and cost-effective manner possible.

In 2009–10, significant effort was put into developing and promoting the Office's first-ever special reports: *Every Image, Every Child* and *Toward a Greater Respect for Victims in the Corrections and Conditional Release Act*.¹ Raising awareness of the work and recommendations contained in each report presented a challenge, given the complex and difficult issues. Clearly, however, the reports struck a chord. Both reports received widespread media attention and very positive feedback from victims and other key stakeholders.

The Office also continued its role as a member of the organizing committee for Victims of Crime Awareness Week, helping to plan and execute another successful Symposium with informative workshops and discussions. Staff were also on hand at the Symposium to share OFOVC materials with victims and other participants and to answer any questions Canadians might have about the Office and its services.

In addition to reaching out to victims, stakeholders and the media, the Office engaged with parliamentarians in order to share important research and information concerning victims' needs and concerns.

The Office appeared before several parliamentary committees on topics such as the Missing Persons Index and the DNA databank, the National Sex Offender Registry and enhancing victims' rights in Canada. The Ombudsman also participated in a number of important announcements pertaining to legislation that would benefit victims, such as the Government's introduction of its *Investigative Powers for the 21st Century Act*, which directly addressed a number of recommendations made by the Office earlier in the year.



Steve Sullivan and Minister of Public Safety, Peter Van Loan, at the Government of Canada's news conference announcing proposed legislation to enhance victim protection.

1. For a summary of the recommendations and research contained in each report, refer to page 18.



Steve Sullivan addresses conference participants in Yellowknife, Northwest Territories.

The Office also developed and provided a submission to the Canadian Parliamentary Coalition to Combat Antisemitism, which the Ombudsman presented before the Coalition in January.

In October, the OFOVC had the opportunity to participate in *Northern Responses and Approaches to Victims of Crime*, a conference organized by the Department of Justice Canada's Policy Centre for Victim Issues. The conference, held in Yellowknife, provided an opportunity for the Ombudsman to learn more about the unique issues facing victims in the North and to speak with victim service workers and organizations from across the North. During his time in Yellowknife, Steve Sullivan had the chance to speak with local media, including on televised evening newscasts, which allowed the OFOVC to help raise awareness of its services in the North.

The following month, the OFOVC joined its colleagues in specialized training for federal government Ombudsman organizations, like the OFOVC. During the two-day session, best practices, tips and issues were discussed, to the benefit of all participants. The session closed with a panel discussion during which the Ombudsman shared his experiences and challenges in leading the development of a new Ombudsman organization, along with examples of OFOVC successes.

In December, after discussions with Service Canada, the OFOVC was invited to take part in the Department's "Feature of the Month" program, which displays and highlights certain federal government publications and documents in its more than 400 kiosks across the country. That month, the OFOVC distributed more than 18,000 copies of its corporate brochure, *Giving a Voice to Victims*, which proved extremely successful, as indicated by a significant spike in OFOVC website visits for January.

The Office also continued to actively participate in a number of important conferences, presenting on the work of the Office and the recommendations made by the Ombudsman to Parliament. The following are a few examples of conferences the Ombudsman presented at in 2009–10.

- Mary Manning Centre's Annual General Meeting—Victoria, British Columbia, June 10
- 2009 International Sex Crimes Conference—Toronto, Ontario, October 6

- Ontario Association of Police Service Boards:
Exploring Crime Prevention and Board
Governance Training—Richmond Hill,
Ontario, October 23
- Plaidoyer-Victimes 5^e Colloque—Montréal,
Quebec, October 28–30
- 32nd Canadian Congress on Criminal Justice—
Halifax, Nova Scotia, October 30–31
- 2nd Annual Confidential Service for Victims of
Abuse Conference—Montréal, Quebec,
December 1
- Child Welfare League of Canada, Board
Meeting—Ottawa, Ontario, February 19
(presented *Every Image, Every Child*)
- Pacific Victims Advisory Forum—Burnaby,
British Columbia, March 3–4
- 2010 Corrections and Criminal Justice
Speakers' Series, Carleton University—
Ottawa, Ontario, March 22

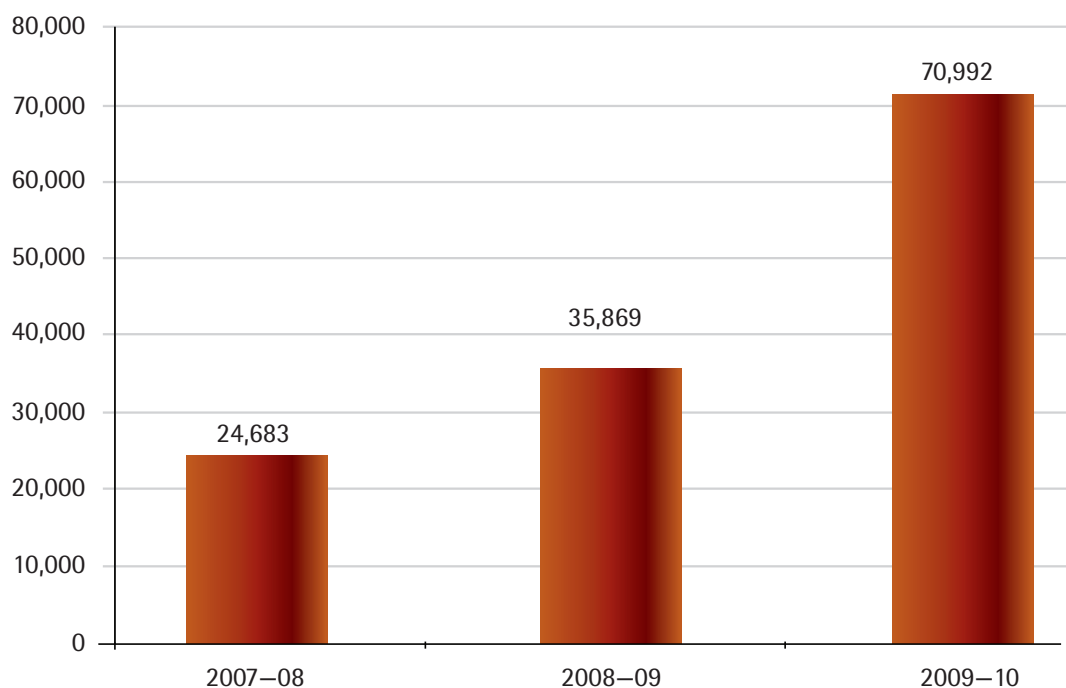
Reaching Further

Website

In 2009–10, the OFOVC's website showed another tremendous spike in the number of visitors. Website visits increased by nearly 98 per cent, essentially doubling the activity from the previous year. This is over and above the increase in 2008–09, when visits to the website increased by more than 45 per cent over fiscal year 2007–08.

Clearly, there is a growing need for the types of services and information offered by the OFOVC and an interest in the Office and its work.

Chart 7.
Visits to the OFOVC website, year-over-year

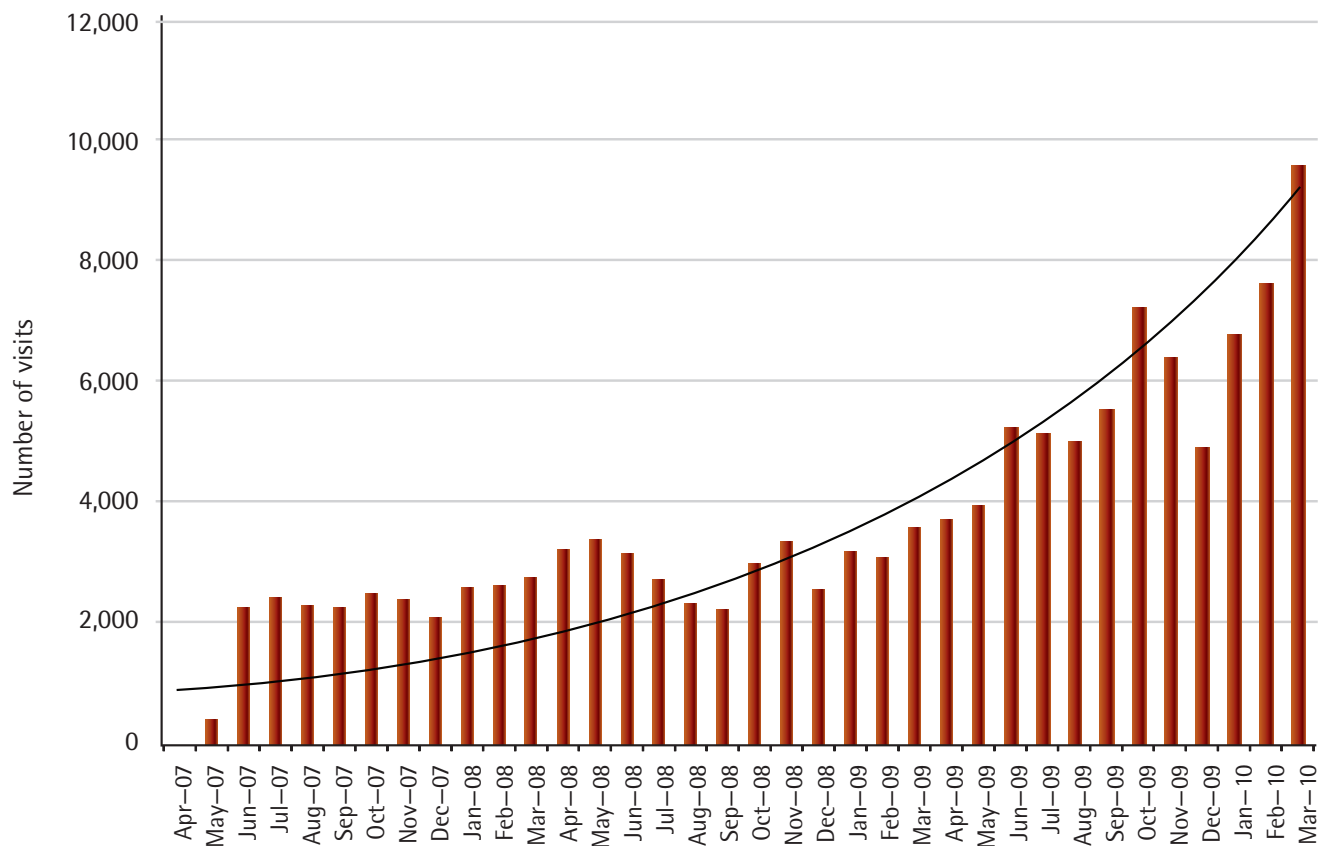


Note: A visit is defined as all activity for one visitor to a website. By default, a visit is terminated when a visitor is inactive for more than 30 minutes.

The most concentrated period of growth was between June 2009 and April 2010, which corresponds to the output of a number of key OFOVC communications initiatives, including the launch of the Office's two special reports.

Chart 8.

Visits to the OFOVC website, monthly, 2007 to March 31, 2010



Media relations

Engaging the public in dialogue on important issues can be a challenge for any organization, especially when the issues are as complex and sensitive as those affecting victims of crime.

Various forms of media, from web-based news to broadcast, are extremely effective in helping raise awareness of the issues and services that affect Canadians. For that reason, the OFOVC remains committed to building direct, open relationships with media and to contributing a victim perspective on key justice issues, wherever possible.

In 2009–10, the OFOVC received and responded to an increased number of media inquiries and was mentioned in the media more than twice as often as during the previous year (112 per cent increase over 2008–09).

Nearly a quarter (23 per cent) of all media mentions were national in reach and, for the first time, the OFOVC received media coverage in the North.

The overwhelming majority (97 per cent) of OFOVC's media coverage in 2009–10 was positive or neutral in tone, and nearly 55 per cent of the total media mentions were the result of direct, proactive media relations activity, such as a news release or letter to the editor.

Progress Toward Positive Change

Special Reports

Every Image, Every Child

Internet-facilitated child sexual abuse is growing at an alarming rate. Tens of thousands of new images or videos are put on the Internet every week and hundreds of thousands of searches for child sexual abuse images are performed daily.² It is estimated that between 2003 and 2007, the number of images of serious child abuse quadrupled.³

In addition to increased volume, the images are getting more violent and feature younger children. Statistics show that 83 per cent of children are 12 years old or younger⁴ and that over 80 per cent of the images involve penetration.⁵

To address this horrific problem, the OFOVC examined the issues and released its first-ever special report, *Every Image, Every Child*. The report provides an in-depth discussion on the growing problem of Internet-facilitated child sexual abuse and makes nine recommendations to the federal government for how to address it.



The report's recommendations touch on:

- the inappropriate and misleading term “child pornography”;
- the limitations of our current privacy laws and the dire implications these have for law enforcement agencies working to find offenders and rescue child victims;
- the importance of devoting more resources to identifying and rescuing the children found in sexual abuse images;

2. Dr. Roberta Sinclair, The National Child Exploitation Coordination Centre, “Internet Facilitated Sexual Exploitation,” PowerPoint presentation made to the 2007 National Crime Victim Awareness Week Symposium, held in Ottawa, April 23, 2007.

3. According to Internet Watch Foundation; Jonah Rimer, Literature Review—Responding to Child & Youth Victims of Sexual Exploitation on the Internet, 2007, p. 16.

4. H.R. 4120, *An Act to amend title 18, United States Code, to provide for more effective prosecution of cases involving child pornography, and for other purposes*.

5. J. Wolak, K.J. Mitchell, and D. Finkelhor, *Internet Sex Crimes Against Minors: The Response of Law Enforcement*, November 2003. Accessed August 10, 2010, from www.missingkids.com/en_US/publications?NC132.pdf.

- the need to better understand and address the needs of children who have been identified as victims of Internet-facilitated sexual abuse; and
- solutions for reducing the distribution of child sexual abuse images.

The report was developed following numerous discussions with law enforcement and non-profit organizations familiar with the subject matter. The final report was delivered to the Minister of Justice in April and then publicly released in June, where it was met with widespread support and public interest.

Later that month, the Government introduced Bills C-46 and C-47, the *Investigative Powers for the 21st Century Act* and the *Technical Assistance for Law Enforcement in the 21st Century Act*, respectively.

Bill C-46 addressed the recommendation in *Every Image, Every Child* that the Government introduce legislation to require ISPs to retain customer name and address data, traffic data and content data for two to five years by proposing to make it possible for law-enforcement agencies to make a demand or obtain a court order for the preservation of electronic evidence.

Bill C-47 addressed another of the Ombudsman's recommendations by proposing to compel all ISPs to release customer name and address information to law enforcement. This is an issue that *Every Image, Every Child* focused on heavily, providing arguments as to why this information was so important to helping law enforcement find and rescue children who are being abused.



Towards a Greater Respect for Victims in the Corrections and Conditional Release Act

Several reviews of the *Corrections and Conditional Release Act* have identified a systemic imbalance when it comes to the rights of the offenders versus the rights of the victims. While offenders' rights are repeatedly provided for in legislation, additional work needs to be done to balance the scales when it comes to victims' rights.

For that reason, the OFOVC developed its second special report, *Towards a Greater Respect for Victims in the Corrections and Conditional Release Act*. The report provides a victim-centric review of the *Corrections and Conditional Release Act*, combining past studies of the Act with first-hand data gathered at a roundtable hosted by the OFOVC in 2007.

The report emphasizes the need to treat victims with compassion and respect, to proactively provide them with information about their rights and the offender who harmed them, to respect the important role they have to play in NPB hearings, and to ensure that court-ordered restitution is paid.

More specifically, the final report, released in March, contained 13 recommendations for reform that emphasize the need to:

- include the Basic Principles of Justice for Victims of Crime in the *CCRA*;
- shift the burden of responsibility to provide information to victims under the *CCRA* from victims to Correctional Service Canada (CSC) and the NPB;
- give victims the right to learn more about an offender's progress and rehabilitation;
- give victims the right to be notified of an offender transfer, in advance where possible;
- give victims the right to attend NPB hearings in person or, where preferred, through the use of available technologies such as video conferencing or access to archived audio or video recordings;
- give victims a stronger voice in transfer and release decisions;
- consider victims' needs in planning the timing, frequency and scheduling of parole hearings; and
- provide opportunities for restitution for victims of crime.

As the report was released at the end of the 2009–10 fiscal year, the OFOVC had not received a reply from the Government during the period covered by this report.



2009–10 Recommendations

PRIVACY LAWS AND VICTIM REFERRALS

Issue

According to the Office of the Federal Privacy Commissioner, Canada's privacy laws do not permit RCMP officers to give victims' names and contact information to victim service organizations without the victims' consent.⁶

This is problematic because, as research has shown, victims have difficulty retaining information following a traumatic event and may not be able to provide informed consent. As a result, victims may never become aware of the programs and services designed to help them cope with their victimization or understand the criminal justice system. Victims who are not informed of their rights and services are, subsequently, less likely to have a positive experience with the criminal justice system.

The OFOVC has recognized this as a systemic issue that can have significant negative impacts on victims.

Recommendation

To address the issue, the OFOVC recommended that the Government of Canada amend the *RCMP Act* to outline the obligations RCMP members have to victims of crime and to introduce a new policy on victim referrals that would address the circumstances below.

- (i) Proactive referrals—for cases where a victim may be at high risk, such as domestic violence or where the crime is serious and obtaining consent was not practical. For example, in some provinces, information sharing or proactive referrals are permitted even if consent is not provided by the victim, based on the assessment that a serious risk to health and safety exists. Definitions of applicable cases would have to be negotiated with the provinces.
- (ii) Active referrals—except in cases where a victim seems vulnerable or unless the victim expresses concerns for serious crime, an officer will explain to the victim that victims' services will contact them.
- (iii) Passive referrals—provision of contact information so the victim can contact victims' services or officer gets consent from victim to provide information.

Status

Public Safety Canada is currently developing a protocol, in consultation with the RCMP and the provinces and territories, which will address the sharing of victims' information with victims' services organizations.

6. In 1999, the Office of the Federal Privacy Commissioner advised the RCMP that "the disclosure of victim information for the purposes of the Victim Service Program does not qualify as consistent use of information under paragraph 8(2)(a) of the *Privacy Act*."

SEXUAL VIOLENCE AND HARRASSMENT IN THE MILITARY

Issue

A recent report from the Military Police Criminal Intelligence Program, titled *2008 Statistical Overview of Sex Offences Reported to Military Police*, stated that half of reported sex offences in the military involve young people, most often females. And while the number of reported cases has remained consistent, it is the issue of unreported cases that is of particular concern.

While the OFOVC was not able to find any research pertaining to the actual versus reported level of sexual assault in the Canadian military, there is research from the United States that suggests that one in seven service women in the U.S. military will experience sexual assault while in the military and that more than 80 per cent of these will not be reported. One-third of female veterans seeking health care through Veterans Affairs have experienced rape or attempted rape during their service.

While direct comparisons to the U.S. experience cannot be drawn, the Ombudsman felt that there were enough similarities to cause concern. Despite improvements to the environment for women in the military, it is impossible with current data to determine the reality of sexual assault and harassment in the Forces and how secure victims feel in coming forward.

Recommendation

In August 2009, the Ombudsman wrote to the Minister of National Defence, Peter MacKay, to recommend that the total level of sexual violence in the Canadian Forces be determined, both reported and unreported. In his letter, the Ombudsman also encouraged the Minister to consider the unique challenges that some recruit victims face in reporting and to ensure that existing support and services available were meeting victims' needs. The Ombudsman also urged that the recommendation put forth by the *2008 Statistical Overview of Sex Offences Reported to Military Police*⁷ concerning a critical review of existing educational programs on what constitutes sexual assault and what supports are available for victims be implemented immediately.

Status

Minister Mackay responded in November, affirming his commitment to enhancing the role of victims in the criminal justice system. The OFOVC will continue to follow up on this issue.



7. Canadian Forces Military Police, *Statistical Overview of Sex Offences Reported to Military Police*, Strategic Criminal Intelligence Section (Ottawa: Author, 2008), p. 12.

MISSING PERSONS INDEX

Issue

Approximately 100,000 people are reported missing in Canada each year. While 95 per cent of these cases are resolved within 30 days, the remaining cases can drag on, sometimes indefinitely, causing extended trauma and anxiety for the victim's family members and loved ones.

In October 2006, the Federal Provincial Territorial ministers Responsible for Justice agreed in principle to the concept of a Missing Persons Index (MPI). An MPI would make it possible to have the DNA profile of a missing person or close biological relative to be compared to the DNA profiles derived from found unidentified human remains from jurisdictions across Canada, in hopes of resolving cases and providing answers for the victim's loved ones.

The benefit this could potentially have for those families forever wondering about the disappearance of a loved one is immeasurable; however, little progress has been made on this issue since 2006. Part of the challenge remains finding a way to manage the cross-jurisdictional nature of the proposed MPI, given that human remains are the property of provincial coroners.

Recommendation

In April 2009, the Ombudsman sent a letter to the then Minister of Public Safety, Peter Van Loan, asserting the importance of an MPI for victims,

recommending that the development of the MPI be given a high priority, and offering to work with the Government as legislation is being drafted.

In addition to his written recommendation, the Ombudsman appeared before the Standing Senate Committee on Legal and Constitutional Affairs on May 7, 2009, and offered to participate in its study on the provisions and operation of the *DNA Identification Act* and to express support for the development of an MPI.

Status

In June 2009, the Office received a response from Minister Van Loan, which stated that a Parliamentary review of the *DNA Identification Act* had been initiated by the Standing Committee of Public Safety and National Security and by the Standing Senate Committee on Legal and Constitutional Affairs, and that the anticipated reports from these committees will inform the Government's views as it moves forward.

That same month, the report of the Standing Committee on Public Safety and National Security was released.⁸ It included a recommendation (recommendation #5) that "the Federal, Provincial and Territorial ministers Responsible for Justice and Public Safety determine the best way of proceeding with the creation of the two additional DNA identification indexes, namely, a Missing Persons Index and a Victims Index."

The OFOVC will continue to monitor the progress of the issue based on this recommendation.

8. Standing Committee on Public Safety and National Security, Statutory Review of the *DNA Identification Act*, p. 10. Accessed August 10, 2010, from http://dsp-psd.pwgsc.gc.ca/collection_2009/parl/XC76-402-1-1-01E.pdf.

VICTIMS OF HATE CRIME

Issue

Hate crimes are unique: while there may be only one physical victim, the crimes are targeted at, and have an impact on, a larger group. Because of this, support services may not be appropriately tailored to the specific needs of hate crime victims. Similarly, in a justice system developed to address individual crimes, it can be difficult for the entire victim population to have a true voice.

Generally, hate crime victims are targeted by an offender because of characteristics that ultimately define their identity as a member of a particular group, such as their physical appearance or religious beliefs. These characteristics are, for the most part, something the victim cannot or would not *want* to change. For this reason, victims may continue to feel like they are at risk of similar or repeat victimization, making it more difficult to regain their sense of security. In fact, research shows that past hate crime victims are four times more likely to be worried or very worried about suffering subsequent hate crime victimization. Victims of hate crime tend to report more distress. They also report higher levels of fear, depression and anxiety. For this reason, it is necessary to ensure that tailored, sensitive victims' services be available to victims of hate crime.

At a community level, the impact of a hate crime reaches far beyond the individual or institution that has been attacked. Hate crimes can promote fear among other members of the victim's community, be it racial, religious or otherwise. Community members may not know the victim or even live in the vicinity and, as a result, may

not be recognized as a "victim" per se or qualify for assistance. Victims of a community also have fewer opportunities to express the impact that the crime has had on their lives in the same way that an individual could through, for example, a victim impact statement.

Crimes that impact an entire community also weaken a victim's natural support system. Research shows that less than 10 per cent of all victims access formal victim services, relying instead on informal supports like family and friends. This has particular implications for victims of hate crime, where secondary trauma to the entire community may also impact these informal supports. In these cases, the ability of the victim's family or community to offer support may be affected by their own feelings of victimization.

Recommendation

In January 2010, the OFOVC made a formal submission to and appeared before the Inquiry Panel of the Canadian Parliamentary Coalition to Combat Antisemitism. As part of its submission, the Ombudsman recommended that the Government consider amending the *Criminal Code* to allow for community victim impact statements, as has recently been proposed with legislation regarding white-collar crimes. The Ombudsman also recommended that services available to victims of hate crimes and hate incidents be substantially enhanced and expanded, including making hate crime victims a priority for victim services.

Status

The OFOVC has not received any response from the Government on this issue.

Updates on Previous Recommendations

✓ **Funding for child advocacy centres (CAC)—**

As in 2008, the Ombudsman once again recommended, both to the Minister of Finance and to the Prime Minister directly, that the Government set aside \$5 million to create a fund that future and existing CACs can apply to for financial assistance. This proposed fund would enable the Government to study the impact of CACs in Canada, while at the same time achieving the long-term goal of providing more supportive child-centric services to victims across Canada. To date, the OFOVC is not aware of any funding that has been allocated to CACs.

✓ **Providing support to victims of crime—**In 2008, the OFOVC recommended that the Government undertake a review to determine the impact of Bill C-550. The Bill, which died on the order paper and has subsequently been revived as Bill C-343, proposed to amend the *Canada Labour Code* and the *Employment Insurance Act* to allow employees to take leave from work with benefits if a minor child suffers serious physical injury during the commission of a crime or as the direct result of a crime, or if there is the disappearance of a minor child or the suicide or murder of a spouse or child. Consultations on the modernization of Part III of the *Canada Labour Code* were launched on February 13, 2009, and formally concluded on June 30, 2009. A report on the results of this consultation has not been released to date.

✓ **National Sex Offender Registry—**In March 2010, Bill S-2, *An Act to amend the Criminal Code and other Acts (Protecting Victims from Sex Offender Act)* was tabled. After its second reading, it was sent to the Standing Committee on Legal and Constitutional Affairs for a more thorough study. The Ombudsman was invited and will appear before the Committee.

✓ **Victim Fine Surcharge (Making Offenders More Accountable to Victims)—**In 2008, the Ombudsman recommended to the Minister of Justice that the *Criminal Code* be amended to make the victim surcharge automatic in all cases. In the March 2010 Speech from the Throne, the Government committed to introducing legislation to make the imposition of a victim fine surcharge mandatory in order to better fund victim services. (A victim surcharge is defined as an amount the court orders the offender to pay in addition to any other punishment imposed.) No legislation of this nature has been introduced in the current parliamentary session to date.

✓ **Restitution—**In Canada, research shows that victims carry the majority of the financial burden associated with crime. Since its inception, the OFOVC has made restitution for victims a priority. As such, the Office was pleased to see the Government include restitution as part of its proposed legislation on white-collar or financial crimes. However, as the Ombudsman asserted in his news release, these same provisions should apply to all victims of crime.

Accountability

Financial Highlights

The OFOVC is an arm's-length program activity of the Department of Justice and is funded by the Department of Justice.

In its third year, the OFOVC continued to build the Office by hiring additional full- and part-time staff to provide support and by making improvements to its internal processes and practices.

As part of the Office's continual emphasis on public outreach, the focus was shifted to domestic initiatives, which resulted in reduced travel costs.

In keeping with its commitment to principles of building an effective and cost-efficient organization, the OFOVC shares services with the Department of Justice, where appropriate, such as contracting and human resources.

Chart 9.
Summary of expenditures, April 1, 2009,
to March 31, 2010

| | ACTUAL—2009–10 |
|---|--------------------|
| Salaries and employee benefit plan contribution | \$823,634 |
| Travel expenses | \$38,214 |
| Training and professional dues | \$24,440 |
| Communication and public outreach | \$64,996 |
| Office furniture | \$3,754 |
| Professional and special services | \$113,391 |
| Rentals | \$4,830 |
| Supplies and utilities | \$8,344 |
| Acquisition of computers and other equipment | \$5,550 |
| Miscellaneous | \$17,031 |
| Total | \$1,104,184 |

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