

Governor's Office of the Crime Victims' Ombudsman
Annual Report FY 2011-2012



Message from the Crime Victims’ Ombudsman

As I reflect back on FY 2012, two words come to mind, “Frenzied Activity.” I stepped into the job of Crime Victims’ Ombudsman midway through the fiscal year. While I was comfortable with handling the complaints from victims of crime, I had a lot to learn, especially as it related to the creation of the Office of Victim Services Education and Certification (OVSEC).



As the year progressed, I found that the complaints were not new. Victims were still not being notified of bond hearings and guilty pleas. Victims did not have the chance to confer with the prosecution and some were not treated with dignity and respect. During the course of my inquiries, I began to think about how, if any, OVSEC information might be of assistance. I realized that the creation of this office meant that the field of victim services was validated but, more importantly, it was a valuable resource in assessing the complaints from crime victims.

In the past, the questions I asked regarding complaints were: who was responsible, what happened and why. Now the questions are: who is responsible, what happened, why and what role (if any) did the victim assistance program play. Just like any other licensed professional, victim service providers are held to a high standard, and if the field is to earn respect for its contributions to the criminal and juvenile justice systems, it must also strive to reach and maintain this high standard.

As the CVO, I must consider this role because there should be trained advocates in every county and in every discipline (law enforcement, solicitor’s office, detention centers). These complaints are happening on their watch and regardless of fault; the question after every complaint is what can we, as advocates and members of the criminal and juvenile justice systems, do to make it better?

In South Carolina, I have met and seen some of the brightest and best advocates in the field of victim services, so I know that better is possible. I believe the resources and the talent are there to ensure crime victims make their journey through the criminal justice system as smoothly as possible.

In that spirit, I look forward to working with you towards the betterment of victim services in South Carolina.

Debbie Depra Curtis
Crime Victims’ Ombudsman



Governor's Office of the Crime
Victims' Ombudsman



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Mission

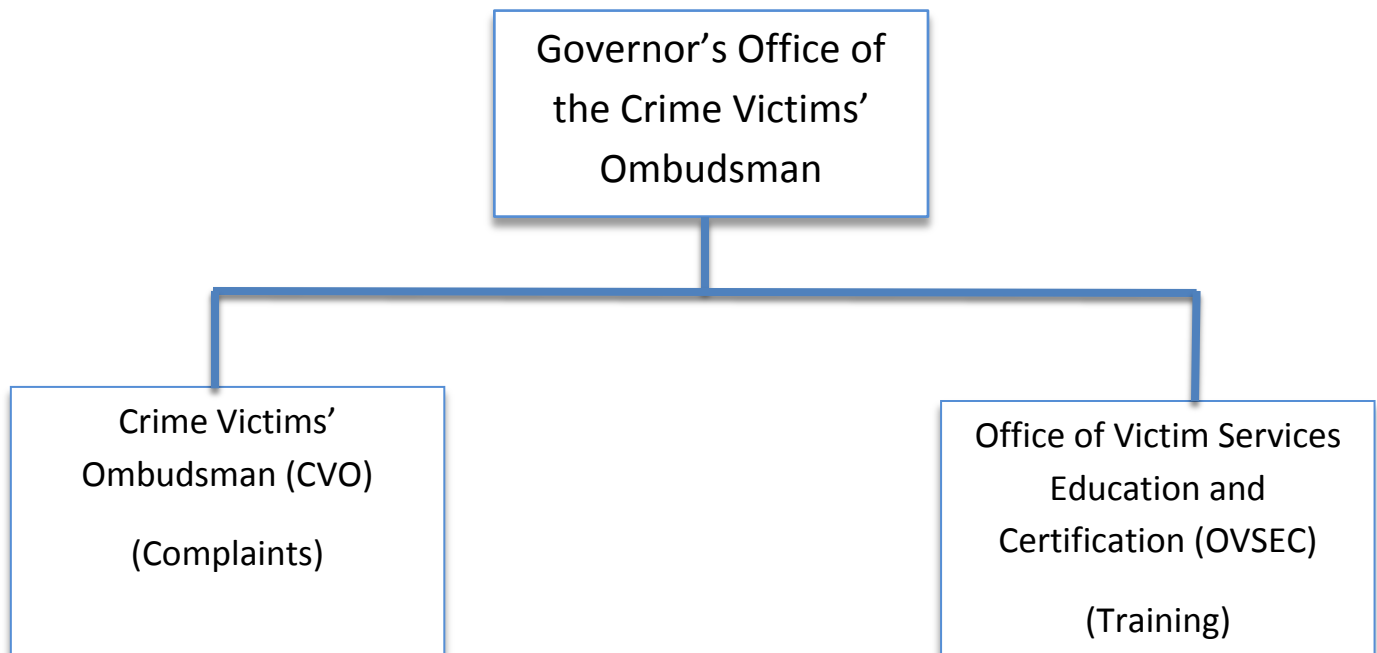
The mission of the Office of the Crime Victims' Ombudsman (CVO) is to ensure that victims of crime are served justly, equitably and fairly by the South Carolina Criminal Justice System and its victim service organizations. Additionally, the Office of the Crime Victims' Ombudsman through its Office of Victim Services Education and Certification (OVSEC) program provides oversight of training, education and certification for victim service providers.



Vision

The vision of the CVO is to provide crime victims and members of the criminal justice system a fair and equitable solution for every complaint including viable sanctions for violations of the SC Victims' Bill of Rights. It is also the vision of the CVO/OVSEC program to become a centralized, efficient and primary source of education and training oversight for victim service providers in South Carolina.

The Office of the Crime Victims' Ombudsman is comprised of 2 divisions with distinct responsibilities. The Crime Victims' Ombudsman (CVO) section handles complaints from victims of crime. The Office of Victim Services Education & Certification (OVSEC) handles certification of victim service providers (VSP) and notifiers/support staff, approves trainings for continuing education purposes, and maintains their records.

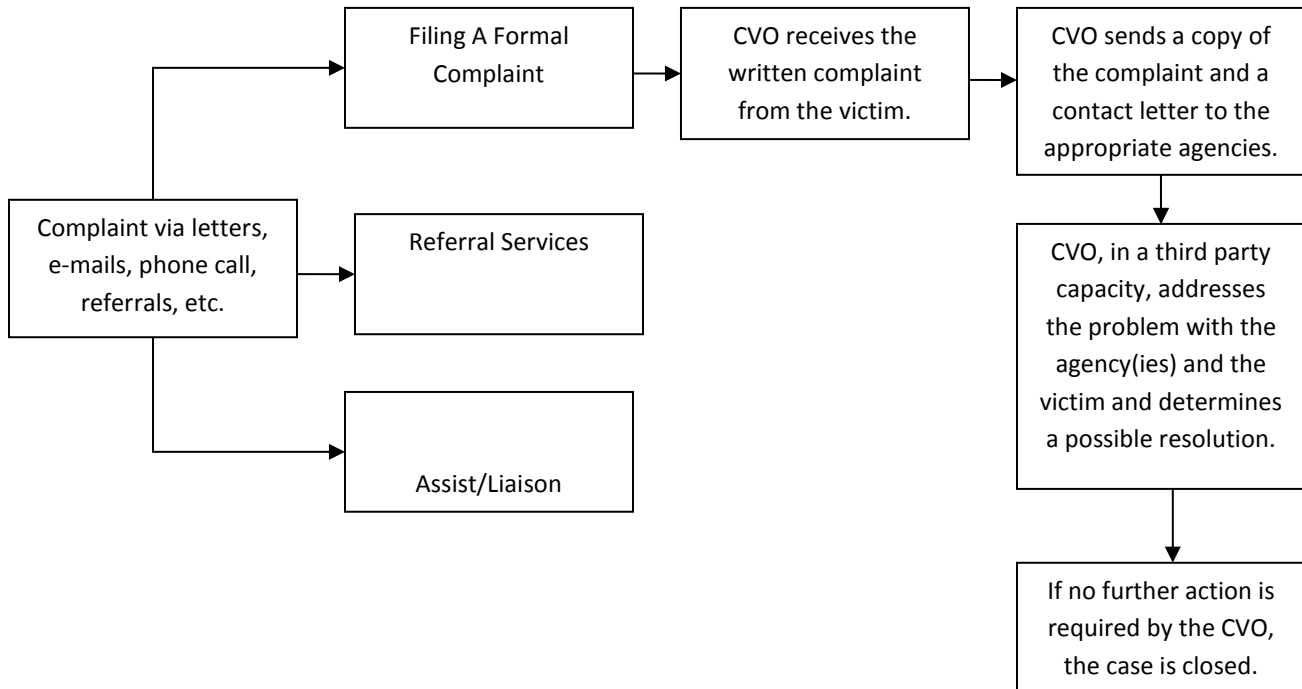


At A Glance...

- 2,066 Phone calls received by CVO and OVSEC
- 501 Referrals/Assists for CVO
- 75 Formal Cases
- 273 New VSP's and Notifiers registered with OVSEC
- 129 Trainings were accredited by OVSEC

Crime Victims' Ombudsman – Complaint Section

General Overview How Complaints Are Handled in the CVO



The primary responsibility of this section is to receive and to respond to complaints filed by victims of crime. These complaints may be verbal or in writing and the CVO, as mandated by law, responds to each complaint in one of three ways:

1) Referral(s)

Refer crime victims to the appropriate element of the criminal and juvenile justice systems or victim assistance programs, or both when services are requested by crime victims or necessary as determined by the ombudsman;

2) Assist/Liaison

Act as a liaison between elements of the criminal and juvenile justice systems, victim assistance programs, and victims when the need for liaison services is recognized by the ombudsman; and

3) Formal

Review and attempt to resolve complaints against elements of the criminal and juvenile justice systems or victim assistance programs, or both made to the ombudsman by victims of criminal activity within the state's jurisdiction.

Most questions and concerns from victims of crime are easily remedied using the first and second method. Verbal communication and discussion among the CVO, the subject of the complaint and the crime victim usually results in a much quicker resolution. However, should the victim require a formal inquiry, the victim must file a written, signed complaint. By choosing this option, the CVO then has the authority to initiate an inquiry. The CVO forwards a copy of the complaint to the subject of the complaint and requests their assistance in providing information about the concerns listed in the complaint by the crime victim. Once the CVO has gathered all the necessary information from both sides of the complaint, the CVO issues a report verbally or in writing to both parties as to the disposition and recommendations of the CVO. The CVO then requests a final report (verbal or written) from the subject of the complaint as to any actions they have taken regarding the recommendations by the CVO.

Examples of each method are listed below:

Referral

Victim would like information about victims' compensation.

CVO would first determine if the victim is in contact with the law enforcement victim advocate. If the answer is no, the CVO refers that victim to the law enforcement victim advocate for assistance. The CVO also advises the victim that he/she may call the State Office of Victim Assistance (SOVA) directly and if neither of those options work, to call CVO back.

Assist

Victim is upset because the assistant solicitor (ASOL) handling the case won't return calls. He/she has left several messages for ASOL to call regarding case.

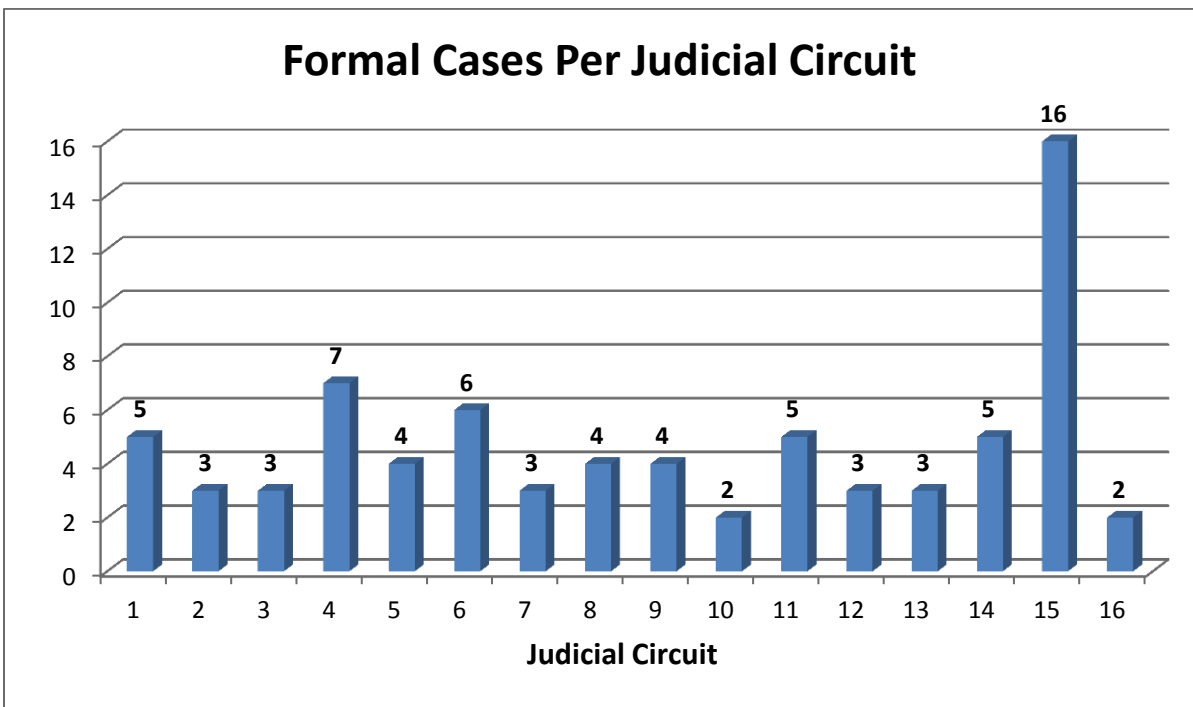
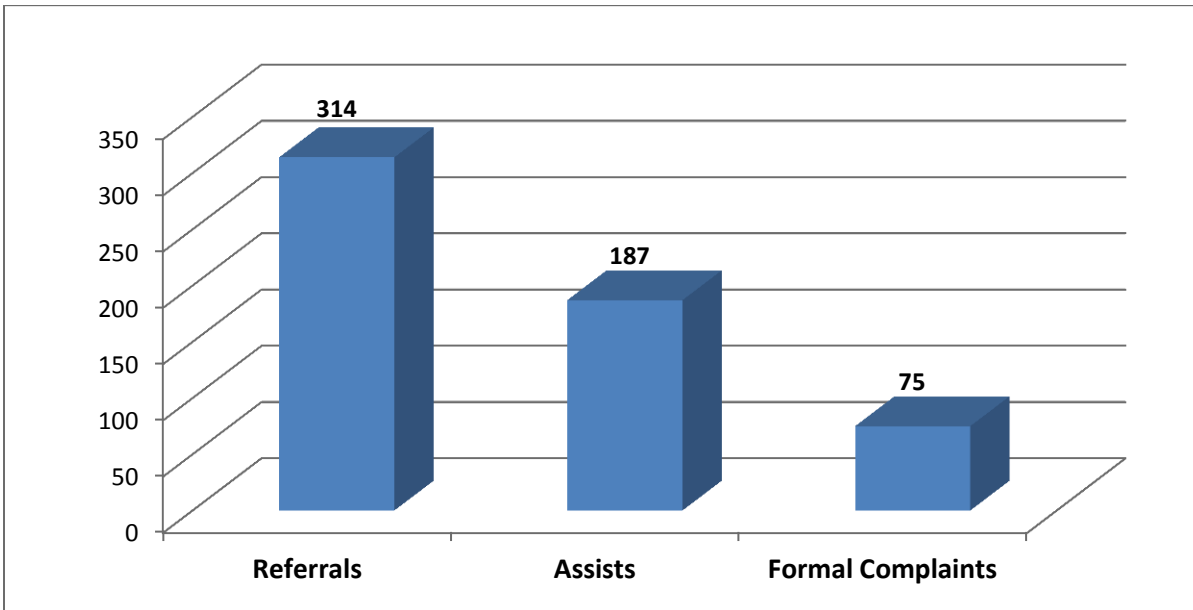
CVO will offer to call the Solicitor's office and advise the Solicitor and/or victim advocate of the victim's concerns and ask for someone to call victim back. CVO then advises the victim that he/she should receive a phone call and if not, to call CVO back.

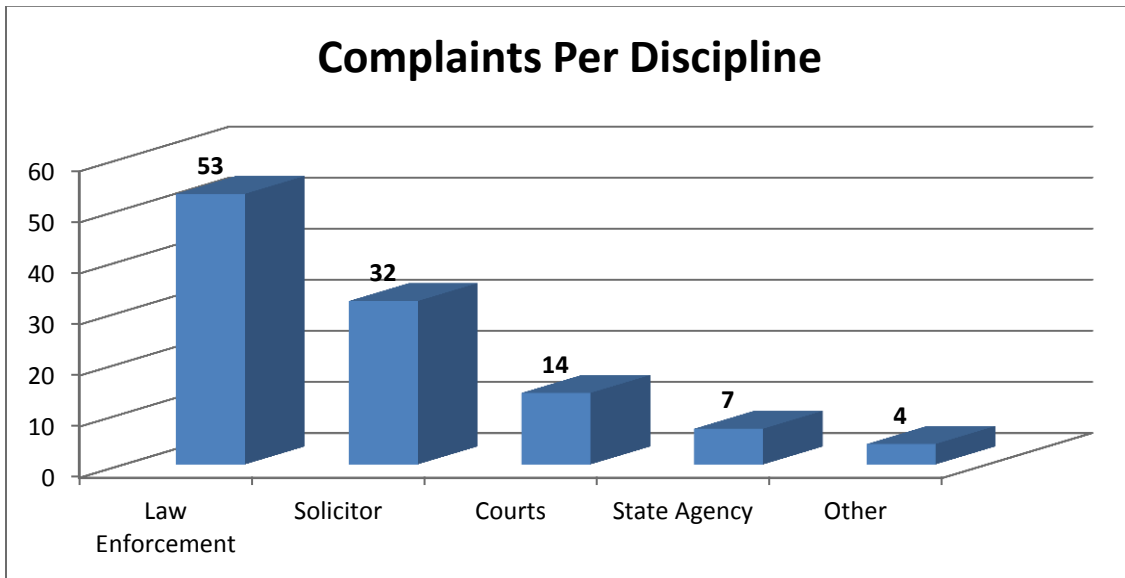
Formal Case

Victim was not notified of the release of the defendant from the detention center.

CVO advises the victim of the option to file a complaint however cautions that filing the complaint will not undo what has happened.

Fiscal Year 2011-2012 Statistics





A crime victim may file a complaint against any entity, individual and/or victim service programs in the criminal and/or juvenile justice systems.

Law Enforcement: All Sheriffs’ Departments
 All City and Town Police Departments
 All Campus Public Safety/Police Departments

Solicitor: All Solicitors and their staff
 **All City Prosecutors and their staff

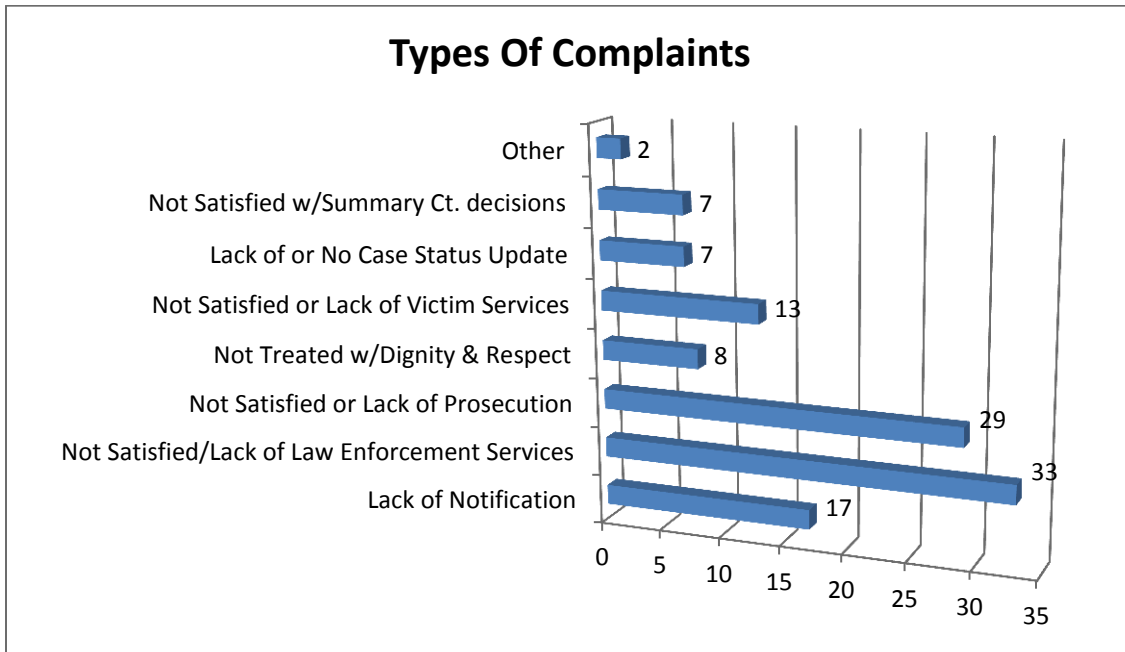
Summary/Municipal Courts: All Magistrate and Municipal Judges, their clerks and staff

State Agency: Any state agency mandated by law to provide victim services, i.e. Attorney General’s Office, Department of Corrections (DOC), Probation, Parole and Pardon Services (DPPPS), Department of Public Safety (DPS), State Office of Victim Assistance (SOVA), Department of Juvenile Justice (DJJ) & Juvenile Parole Board

Other: All non-profit agencies that provide victim services; detention centers

*Please note that one case can include complaints against multiple agencies..

**In the larger municipalities in SC, oftentimes there are city prosecutors that handle the summary court level offenses.



The number of **complaints** per fiscal year is almost always more than the number of **formal cases opened** by the CVO because a victim(s) may have several complaints for the same situation and only one case is opened by the CVO. For example, a victim may have a complaint about not having been notified by a magistrate about a bond hearing and, depending on the outcome of the bond hearing, the victim may also complain about not having been notified by the jail about the defendant’s release. One case would be opened but with two complaints against two separate agencies.

Of these complaints, 55 were unfounded, 15 were not justified, 15 were founded and 10 were dismissed. The guidelines for each of the dispositions are as follows:

- | | |
|---------------|--|
| Founded | The reported acts or part of the reported acts occurred. |
| Unfounded | The acts did not occur or the acts did occur but were within the scope of authority for that individual, agency or entity. |
| Not Justified | There was insufficient evidence to prove or disprove the reported acts occurred. |
| Dismissed | The case was withdrawn due to lack of victim participation. |

Types of Complaints

The following cases are examples of the 4 types of possible resolutions in formal complaints.

- I. A minor victim was severely beaten by 2 defendants. The victim's father was notified about the preliminary hearing for defendant A. He was not notified of the preliminary hearing of defendant B. Defendant B's charges were dismissed at the preliminary hearing.
The victim's father wanted to know why he wasn't notified of the preliminary hearing.

Cases were opened against law enforcement and the summary court.

An inquiry revealed that summary court did not notify the victim because they did not receive the victim contact information from law enforcement.

Relevant Law

S.C. Constitution, Article I, Section 24 (A) (3)

(A) To preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:

(3) be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present

S.C. Code Section 16-3-1525 (F)

Upon detention of a person, other than a juvenile, accused of committing an offense involving one or more victims and which is triable in summary court or an offense involving one or more victims for which a preliminary hearing may be held, the arresting **law enforcement agency must provide, in writing, to the summary court the name, mailing address, and telephone number of each victim.**

The complaint against the summary court was **unfounded.**

The complaint against law enforcement was **founded.**

2. A victim was robbed by 2 defendants. One defendant pled guilty in exchange for his testimony against the other defendant. The victim's mother was not happy with the Solicitor's strategy and wanted to file a complaint. CVO explained to the mother that since her son was an adult, he would have to file the complaint.

Upon receipt of the complaint from the son, the CVO conducted an inquiry. The inquiry revealed that the Solicitor spoke with the son and the mother about the plea. The victim understood the Solicitor's decision but expressed disappointment. At the guilty plea the victim's mother was given the opportunity to address the court about her dissatisfaction with the plea. The Solicitor advised that the whole time the case was in the office, he spoke directly with the victim and the victim's mother any time they had concerns. He felt however, in light of the complaint and the feelings of the victim and his mother that his victim advocate should be their point of contact.

CVO attempted to contact the victim by phone and by mail to advise the victim of the results of the inquiry. The victim did not respond.

The complaint against the Solicitor was **dismissed.**

Types of Complaints (continued)

3. A victim of criminal domestic violence was not notified that charges were dropped by the Solicitor's office.

A case against the Solicitor's office was opened.

During the course of the inquiry, the CVO determined that the decision to drop the charges did not come from the original solicitor. The solicitor that dropped charges stated that he spoke with the crime victim on the phone about the charges being dropped. The crime victim insisted repeatedly that she never received nor spoke to the Solicitor. Additionally, the Solicitor's office could not provide documentation about notification. The CVO was unable to definitively prove the veracity of either side.

Relevant Law

S.C. Constitution, Article I, Section 24 (A) (7)

(A) To preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:

(7) Confer with the prosecution, after the crime against the victim has been charged, before the trial or before any disposition and informed of the disposition.

S.C. Code Section 16-3-1545(H)

The prosecuting agency must discuss a case with the victim. The agency must confer with each victim about the disposition of the case including, but not limited to, diversions and plea negotiations.

The complaint against the Solicitor was **Not Justified**.

4. A minor victim was sexually assaulted by her biological father. As a result, the minor victim got pregnant and gave birth to a baby boy. The father was then charged with Criminal Sexual Conduct 2nd Degree and Incest. The victim was not satisfied with the Solicitor's office because the case was still pending and her son was now 11 years old.

A case against the Solicitor's office was opened.

When the case was opened, the CVO determined that the case had been pending in the Solicitor's office for 11 years. The original DNA test through DSS was a match between victim's son and victim's father. A 2nd DNA test during the course of this inquiry revealed the same results. The defendant pled guilty to Criminal Sexual Conduct with a Minor 2nd Degree and received 1 year in jail.

Relevant Law

S.C. Constitution, Article I, Section 24(A) (11)

(A) To preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:

(11) A reasonable disposition and prompt and final conclusion of the case.

The complaint against the Solicitor was **Founded**.

Crime Victims' Ombudsman
Office of Victim Services Education and Certification (OVSEC)

This section of the Crime Victims' Ombudsman Office is responsible for the following:

1. provide oversight of training, education, and certification of victim assistance programs;
2. with approval of the Victim Services Coordinating Council (VSCC), promulgate training standards and requirements;
3. approve training curricula for credit hours toward certification;
4. provide victim service provider certification; and
5. maintain records of certified victim service providers.

A Victim Service Provider (VSP), according to S.C. Code Section 16-3-1400, is a person:

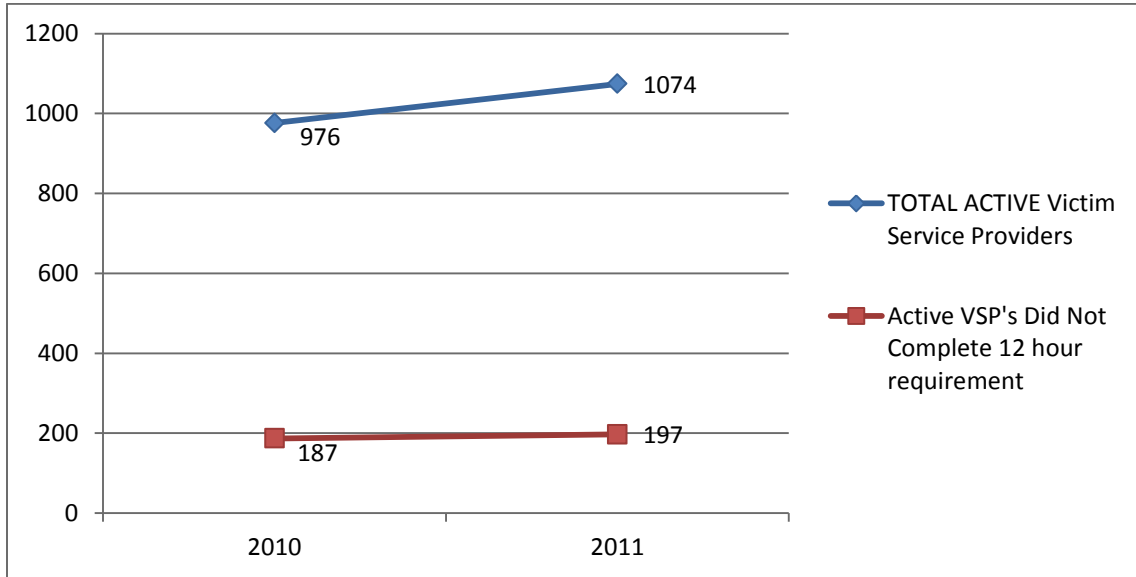
- (a) who is employed by a local government or state agency and whose job duties involve providing victim assistance as mandated by South Carolina law; or
- (b) whose job duties involve providing direct services to victims and who is employed by an organization that is incorporated in South Carolina, holds a certificate of authority in South Carolina, or is registered as a charitable organization in South Carolina, and the organization's mission is victim assistance or advocacy and the organization is privately funded or receives funds from federal, state, or local governments to provide services to victims.

Victim service provider does not include a municipal court judge, magistrate court judge, circuit court judge, special circuit court judge, or family court judge.

A subset of the Victim Service Providers is the Notifiers/Support Staff. These individuals provide notification to crime victims but do not provide advocacy and are usually employed in the detention center and summary court. They are mandated to receive a 2 hour training every year on the Victims' Bill of Rights and Victim/Witness Service Statutes.

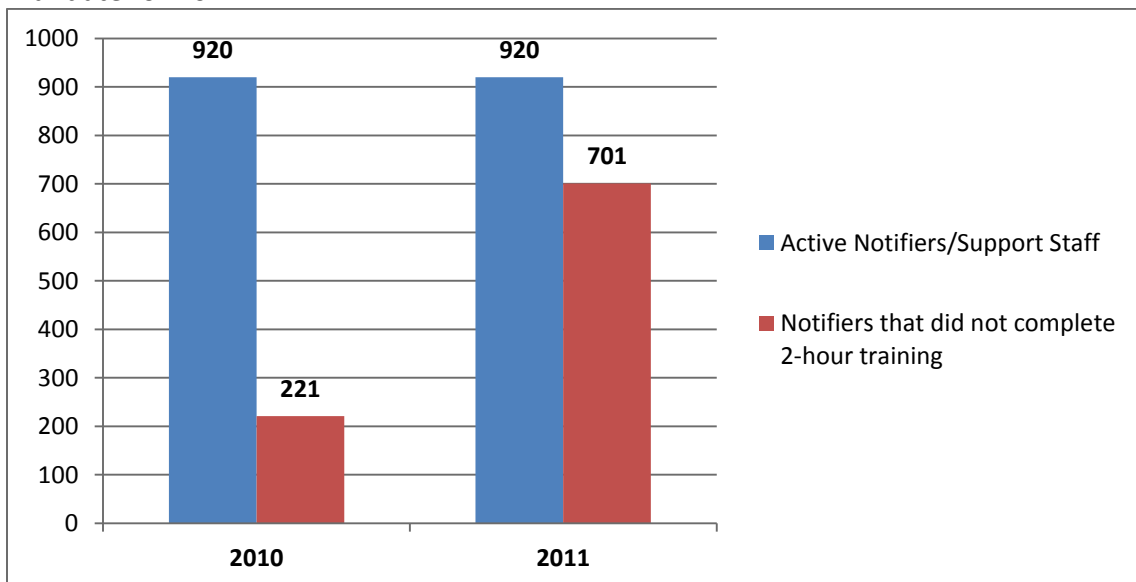
Victim Service Providers

In calendar year 2011, the number of active victim service providers rose to 1074 from 976 the previous year. Comparatively, the number of active VSP’s who did not complete the mandatory 12 hour training rose to 197 from 187 the previous year.

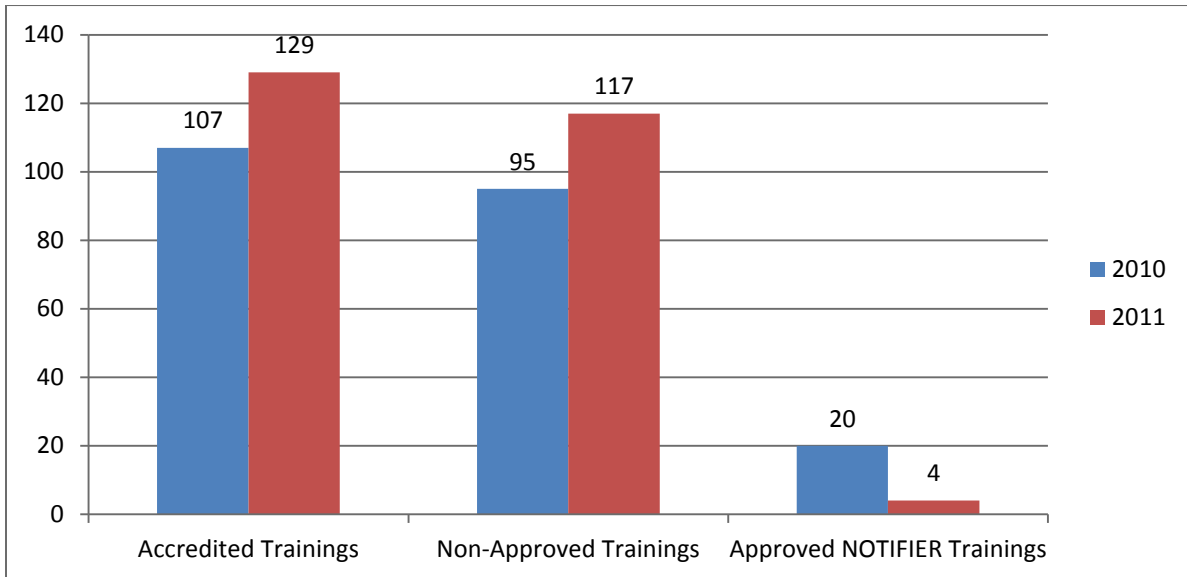


Notifiers/Support Staff

In 2011, there were **920** total active Notifiers/Support Staff. **701** of them did not comply with training requirements and get their mandatory 2- hour training. In 2010, there were 920 active Notifiers/Support Staff, 221 of them did not get their mandatory 2-hour training. Please note that in 2011, 76% of all notifiers **did not comply** with the training mandate. As a result, the Victim Services Coordinating Council (VSCC) waived the mandate for 2011.



The main reason notifiers and support staff were not able to comply with the mandate was that only 4 notifier/support staff trainings were conducted in 2011.



We, in the Office of the Crime Victims' Ombudsman, welcome any feedback, comments, concerns or questions regarding this annual report and/or the services we provide. Please feel free to contact us at any time. Our information is listed below:

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