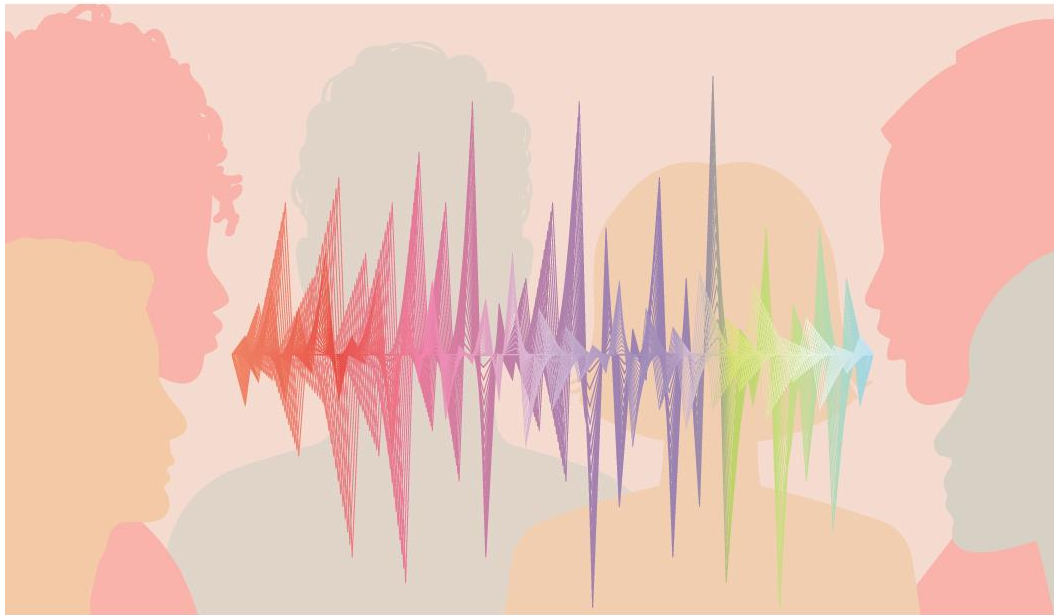


South Carolina Crime Victim Ombudsman

Annual Report FY 2022 – 2023

Survivor Voices



Elevate. Engage. Effect Change.

A Message from the Ombudsman

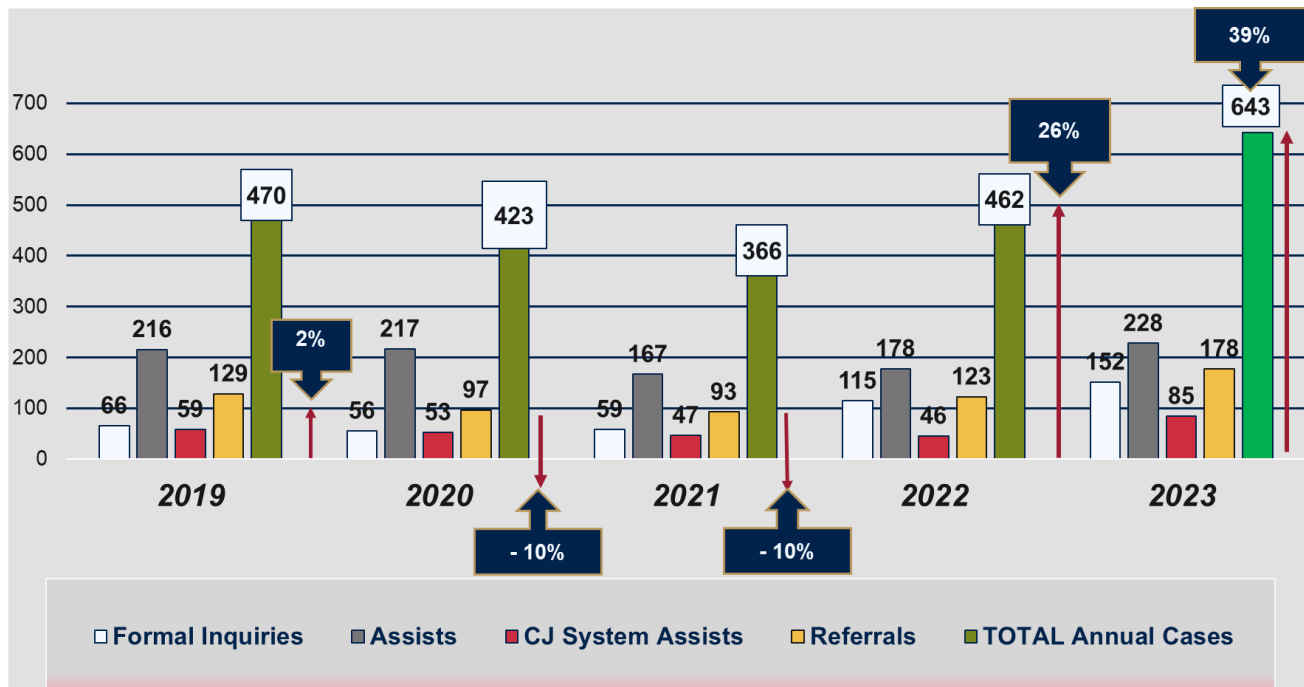
When the world resumed operations after the COVID-19 pandemic, it was apparent to the staff of the Crime Victim Ombudsman (CVO) that victims' rights were among the first casualties of the criminal justice process. As many prisoners were allowed early release from jail, victims complained that they were shut out of court proceedings, forbidden to bring their spouses along for support, and forced to wait yet another year for justice.

You can see the impact of the pandemic on crime victims from our data. Before COVID, we saw a modest increase in our caseload. In both years when COVID impacted the criminal justice system, complaints decreased 10%. When courts opened back up, our caseload exploded, increasing 26% last year and 39% this year.

CVO handled 152 Formal Complaints this year compared to 115 last year, a 32% increase. We found victims' rights violations in 36 of those cases which comprised 22% of all Formal Complaint cases submitted: **16 more FOUNDED** cases this year compared to last.

Fifty more crime victims sought help from CVO this year than any year prior. It was an honor to see a 51% increase in calls from members of the criminal justice / victim services community seeking our advice and assistance. We all collaborated to develop workable solutions for victims.

CVO CASELOAD INCREASE/DECREASE 2019 - 2023



Lena Grant, who proudly served victims through CVO for many years, retired this year. We hired Sarah Beth Coe, a former LEVA, who immediately dug in to help solve problems for our constituents.

CVO uses creative solutions to help people in need. One example is:

A wheelchair bound, elderly crime victim moved to South Carolina and was defrauded of \$100k. She called us because initially, police did not believe a crime had been committed. The small town's only Advocate was out on extended sick leave. CVO collaborated with local police who obtained investigative assistance from the U.S. Secret Service. CVO staff and Secret Service Agents helped the victim find a new wheelchair and arranged for free shipping, intervened with the landlord to obtain months of free housing, bought her food and a microwave, sought donations to have her broken truck towed and repaired, and eventually helped her obtain a voucher for housing. The offender was apprehended but has not been prosecuted.

Results from CVO Recommendations:

- Prosecutors in one circuit will no longer "consent to bond" without holding a hearing.
- For circuits that must "consent to bond," victims' consent will first be obtained.
- A judge reinstated restitution for a survivor of attempted murder.
- A judge amended a mutual restraining Order to remove the victim.
- A judge agreed to start notifying victims to attend bond hearings for probation violations.
- A judge dismissed a case after hearing the arresting officer was not present in court. However, his supervising officer advised the Court that he was present, and he had also been present at the crime scene. When the judge still refused to hear the case, CVO referred the victim to lawyers who have filed a writ of Mandamus with the Supreme Court on their behalf.
- A judge revised bond conditions for a victim whose spouse attacked them with an axe in front of their children.

I am very proud to be a part of the Victim Services community, and it gives me great pleasure to present the *South Carolina Crime Victim Ombudsman's Annual Report for 2022-2023*, which is mandated by S.C. Code Section 16-3-1630. We are available to answer any questions you may have about this Report, or about South Carolina's crime victim services system.

Thank you for all you do to help others!



Veronica Swain Kunz
South Carolina Crime Victim Ombudsman

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South Carolina Crime Victim Ombudsman



Our mission is to ensure that victims of crime are served equitably and treated fairly by the South Carolina criminal justice system and its victim service organizations by providing third-party liaison assistance.

Our Philosophy: Building a Better Victim Services System

What does CVO do?

- Raise awareness and provide resources regarding victims' rights laws
- Address victims' complaints about criminal or juvenile justice/ non-profit entities
- Conduct inquiries into alleged violations of victims' rights laws
- Identify gaps in victim services, or non-uniform application of victims' rights laws
- Conduct site visits and evaluate complex operations and activities of victim service providers

What can CVO do for victims of crime?

- Facilitate resolution of victims' rights concerns with criminal and juvenile justice entities
- Promote participation in the justice process in furtherance of healing
- Help ensure justice is served through upholding victims' rights

What can CVO do for criminal and juvenile justice / non-profit entities?

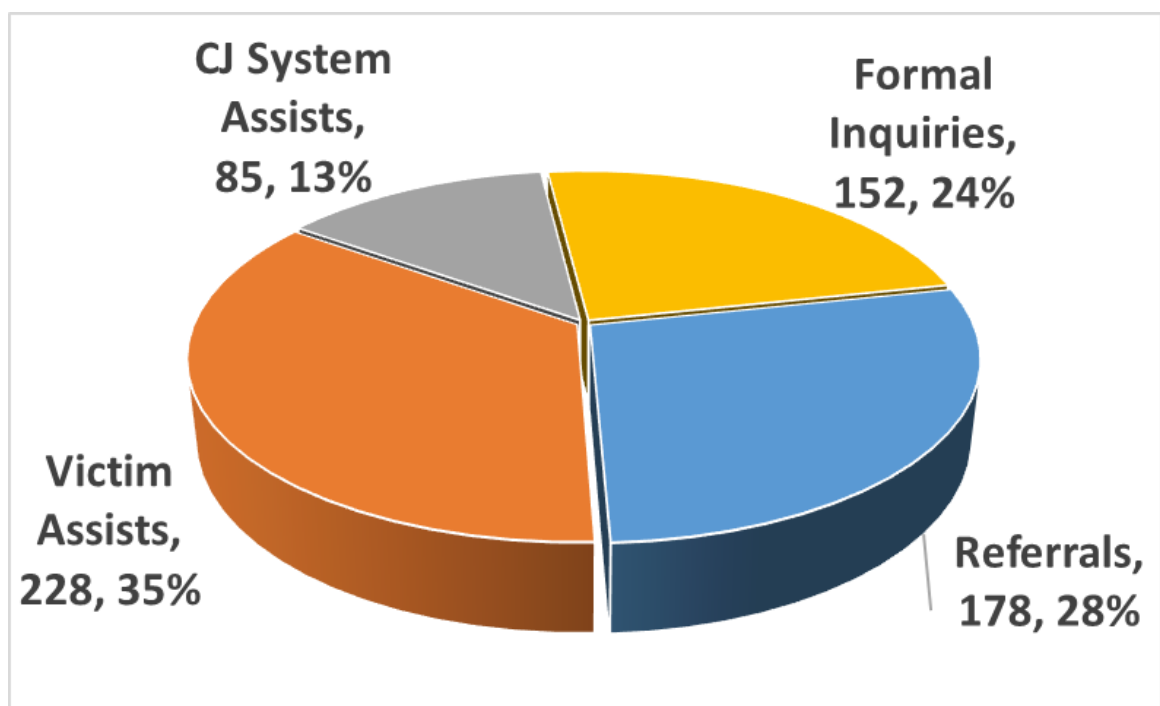
- Promote accountability
- Provide support and technical assistance to assist agencies in performing mandated duties
- Recommend changes to correct problems and improve victim services
- Exonerate agencies from unjustified criticism when alleged violations are unfounded
- Provide agencies with sample policies, procedures and form letters
- Provide feedback about areas in which agencies could improve, as well as areas in which they excel

How We Accomplish Our Mission

S.C. Code Section 16-3-1620(B)

1. **Refer crime victims** to the appropriate element of the criminal and juvenile justice systems or victim assistance programs, when services are requested by crime victims or are necessary as determined by the Ombudsman;
2. **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;
3. **Review and attempt to resolve complaints** against elements of the criminal and juvenile justice systems or victim assistance programs, made to the Ombudsman by victims of criminal activity within the state's jurisdiction.

Crime Victim Ombudsman Annual Statistics FY2023 – 643 Total Cases



CVO PROVIDES REFERRALS

We serve as a hub of information in the State to help anyone find crime victim assistance. Much of our work involves educating callers about resources available in their own communities and how they can help. We connect victims to the expert Victim Service Providers working in law enforcement agencies, Solicitors' Offices, courts, detention centers/jails, state agencies, college campuses and in non-profit organizations to ensure their needs are effectively met.

REFERRALS

Case Examples: REFERRALS

178 individuals called CVO seeking help. Some of their concerns are listed below:

- A caller wanted to file charges against their parent for disclosing their sexual assault when they were young.
- A judge was concerned for a friend who was dealing with a dangerous DV offender and was worried that a Restraining Order would not protect them.
- A caller was trying to evict their child who was threatening and terrorizing those in the home.

- A caller's employer put them on leave pending an investigation, but they were the victim.
- A caller stated that someone lives in their elderly parent's shed, and they cannot get rid of them. What should they do?
- A caller stated a juvenile relative was missing for a year and requested that SLED join the investigation.
- A caller sought information about how to file charges on a violent ex-partner.
- A caller was concerned that an admitted sex offender runs a camp for children.
- A caller wanted information about our state's Address Confidentiality Program.
- A caller was angry that the offender who raped their toddler years ago was released from prison with no notification.
- A caller was angry that their ex-partner lied about the paternity of a child and wanted them criminally charged for lying in court.
- A caller complained that documents were falsified by a clerk of court.
- A caller whose loved one was murdered sought cold case/homicide support groups.



Two Types of 'ASSIST' Cases:

228 Assists

- **Crime Victims**
- **Next of Kin**
- **Concerned for Victim**
- **"Other"** (non-criminal issues, offenders, lawyers, teachers, therapists, students)

85 CJ System Assists

- **Sheriffs, Chiefs and Law Enforcement Victim Advocates (LEVAs)**
- **Non-Profit Advocates**
- **State Agencies**
- **Solicitors and Advocates**
- **Court Staff and Judges**
- **Jails / Detention Centers**

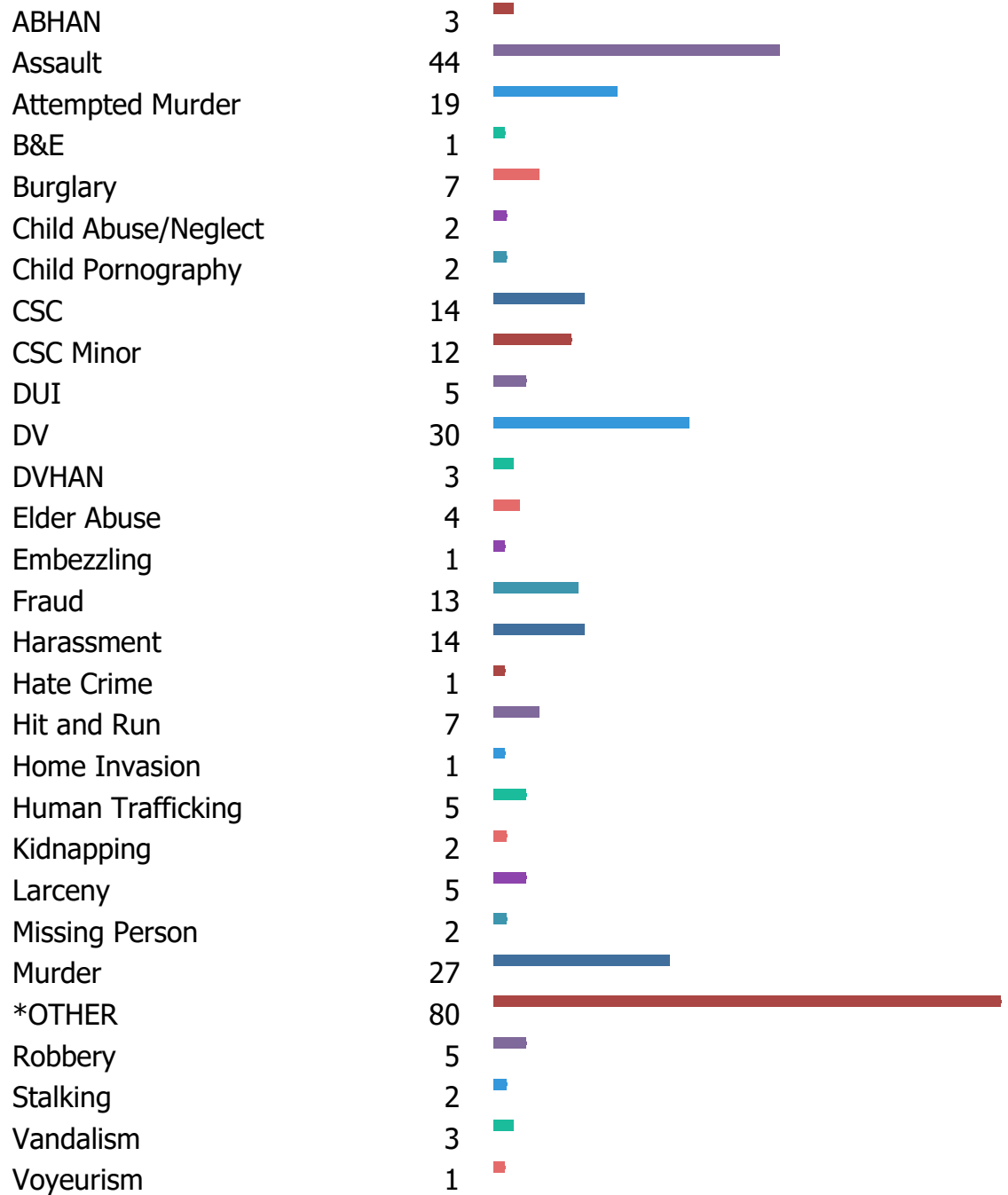
Why Call CVO for Help?

Crime victims call us when they believe something has gone wrong in their cases. When victims call with concerns, we serve as a neutral third-party to help them understand the issues and work towards a solution.

CVO "Assist" cases can be as difficult and time-consuming to resolve as Formal Complaints. These cases can also lead to systemic change in the criminal justice process.

Handling an issue in the form of an "Assist" allows us to conduct an inquiry without the necessity of a formal written letter from the victim. ***This year, 72% of Assist cases are requests for help from crime victims or their loved ones.*** These cases are more involved than referrals and can take anywhere from a few phone calls in one day, to months and a number of meetings to resolve.

Types of Crimes: 313 Assist Cases



*Other: Request from a member of the CJ / VS System or not related specifically to a certain crime.

EXAMPLES: 'VICTIM ASSIST' CASES

The list below contains the presenting allegations CVO received from people seeking help:

- A caller was assaulted on her porch and alleged a judge would not charge sexual assault because she was not penetrated.
- A caller's baby was raped by a stepson and was concerned that the guilty plea was taking too long.
- A victim had a Permanent Restraining Order from another state. The offender contacted a family member, but police refused to take a report.
- A caller was gang raped but they were arrested on drug charges. While on probation, they were rearrested for DV. Now homeless, they wanted help getting all charges dismissed.
- A person living in Section 8 Housing needed help getting an abusive ex evicted.
- A caller had a gun pointed at him while playing tennis and was upset police "didn't do anything."
- A person died after being stabbed. Police said the person was acting in self-defense and would not be charged. The family wanted to meet with police to understand how they came to that determination.
- A victim was concerned that an offender was receiving credit for time served and immediately bonded out of jail.
- A caller's parent was killed in a bike / car crash and was upset that no criminal charges would be brought.
- Numerous callers complained that their cases were dismissed with no notification.
- An elderly disabled woman was defrauded of \$100K by a man purporting to sell her a container home. Police refused to take a report, believing it to be a civil matter.
- A victim of a paving scam was shocked that police could not assist.
- Two juvenile victims were too afraid to make victim impact statements in court because of gang-related crimes.
- An inmate sought information about the case of their murdered infant years ago.
- A caller's father-in-law died under suspicious circumstances and his ex took his belongings. The police would not take a report until probate was concluded.
- Grandparents sought custody of twins because mother was still in contact with boyfriend who was arrested on child sex abuse charges.
- When caller's husband went to jail for DV, he signed all assets over to his mother. The wife was being evicted. What can she do?

- A victim reported being assaulted by a coworker and was upset that the police closed their case.
- A survivor, raped in their home, was not notified about a bond hearing or offender's release from jail. The offender lived next door.
- A parent was concerned that police did not arrest their son's wife: she stabbed him while he was strangling her.
- An offender violated Permanent Restraining Order. The victim was upset that a judge released him with intensive probation and no referral to General Sessions Court.
- A caller's employer penalized her for attending the trial of her son's murderers and missing work.
- Relatives wanted to know why police and prosecutors believed an officer-involved shooting was justifiable homicide.
- An offender failed to appear in court three times. The survivor was upset that a Solicitor said he may have another opportunity for the case to be continued.



'CRIMINAL JUSTICE ASSIST' CASES

It is an honor to assist our colleagues in the criminal justice / victim services community by providing information, advice, research and technical assistance. We also help mediate issues between coworkers or agencies to improve collaboration in providing services to victims. If you need help or answers to any of the questions listed below, please call us!

Our stakeholders in the victim services/ criminal justice community requested the Ombudsman's help with the following issues:



- A LEVA called seeking shelter for a teen victim of human trafficking.
- An Indiana Advocate wanted information on SC's Confidential Address Program.
- A LEVA sought resources and support for a survivor with disabilities.
- An Advocate sought resources for an immigrant whom they believed to be victimized but would not disclose the crime.
- A Police Chief wanted to ensure he was complying with victims' rights when dismissing a case.
- The Long Term Care Ombudsman had a question about helping a senior report fraud.
- A Solicitor Advocate had a question about the propriety of asking DV survivors if they want their cases prosecuted.
- A Solicitor called for advice about the right to review the case file by the next-of-kin of a homicide victim amidst a family dispute.
- A LEVA asked if she was obligated to assist a DV survivor who was trying to contact her abuser in jail.
- An Advocate working with a blind sexual assault victim wanted advice about how to file a complaint against the Department of Mental Health.
- An Advocate had a question about a victim reviewing the casefile that contains mental health notes.
- An Advocate needed information about records retention standards for victim files.
- An Advocate was concerned that a judge was implementing new courtroom procedures in violation of victims' rights.
- A Judge who was bitten by dog was told he was not a victim of a crime.
- Are Solicitor Advocates required to give Public Defenders victim's updated contact information?

- [illegible]

How Does CVO Use Data We Collect?

We collect all types of data in every case we handle: type of caller, county, agency involved, type of complaint, crime involved, how we resolved the issue, victim's right violated, etc.

The information we gather informs our ability to:



spot trends in crime, violations of rights



identify areas in need of training, resources or intervention



update educational and outreach events

CVO Provides Training

We have developed seminars about crime victims' constitutional and statutory rights, the history of victims' rights, victimization and its impact, communicating with victim/survivors, and specific training for LEVAs and law enforcement leaders, Summary Court judges and staff, Solicitors and Solicitor Advocates, Child Advocacy and Detention Centers.

In 2022-2023, CVO seminars included:

- Annual Solicitors' Conference
- Victims' Rights Week Conference
- State Network of Child Advocacy Centers
- Upstate Judicial Association Conference
- Basic VSP Training in Orangeburg and Newberry Counties
- Created 2-hour online training for Notifiers
- Municipal Court Association Conference
- Juvenile Arbitration Directors Annual Meeting

Allegations of Victims' Rights Violations: FORMAL COMPLAINTS

The Ombudsman is mandated to review and attempt to resolve complaints. A crime victim may file a Formal Complaint against any entity, individual and/or victim service program in the criminal and/or juvenile justice system, or non-profit victim/survivor service group:

Police

- All Sheriffs' Departments
- All City and Town Police Departments
- All Campus Public Safety/Police Departments
- SC Highway Patrol

Solicitors

- All Solicitors and their Staff
- All City Prosecutors and their Staff

Courts

- All judges and staff in Circuit and Family Court
- Magistrates and Municipal Court

Detention Centers / Jails

- All Detention Center Staff charged with notifying crime victims about offenders' releases / transfers / escapes

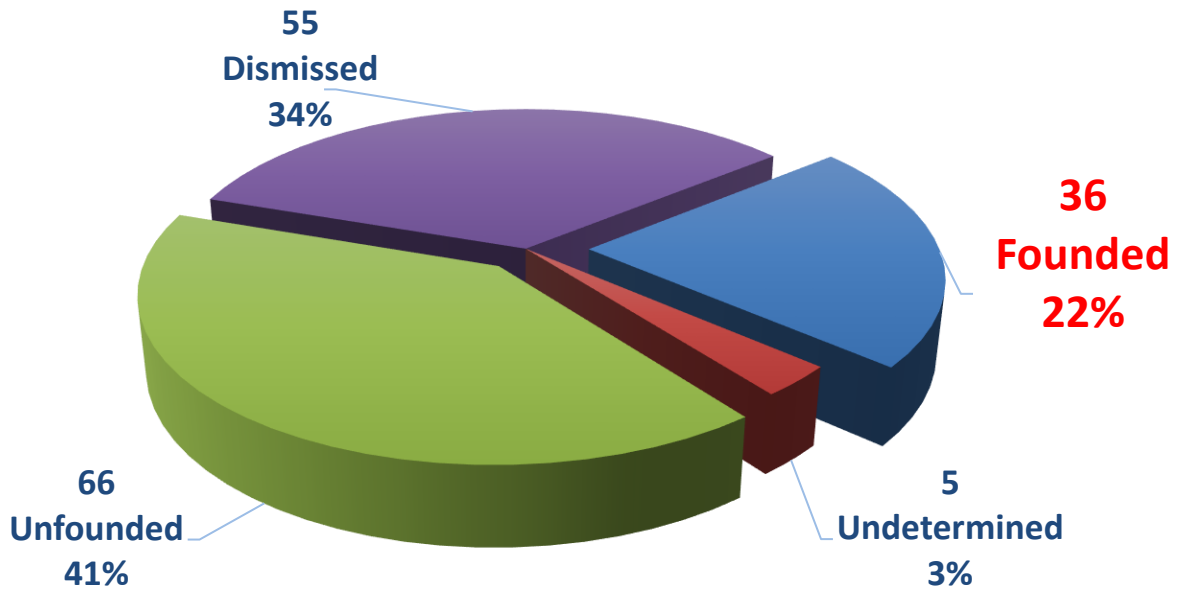
State Agencies

- Department of Corrections (SCDC), Probation, Parole and Pardon Services (DPPPS), SLED, Department of Crime Victim Compensation (DCVC), Department of Juvenile Justice (DJJ), Juvenile Arbitration Board, Attorney General's Office

Other

- All Non-Profit Agencies that provide victim services; therapists, attorneys, etc.

DISPOSITIONS IN FORMAL CASES - 152 SUBMISSIONS



Our online complaint process allows anyone to submit a Formal Complaint. **The complaints that do not allege a person is dealing with a criminal matter is designated as “Other.”** In carrying out the inquiry, we request information and documents from the agencies to help us make a decision whether or not the entity violated the victim’s legal rights. This decision is called a **“Disposition.”**

The guidelines for each of the Dispositions are as follows:

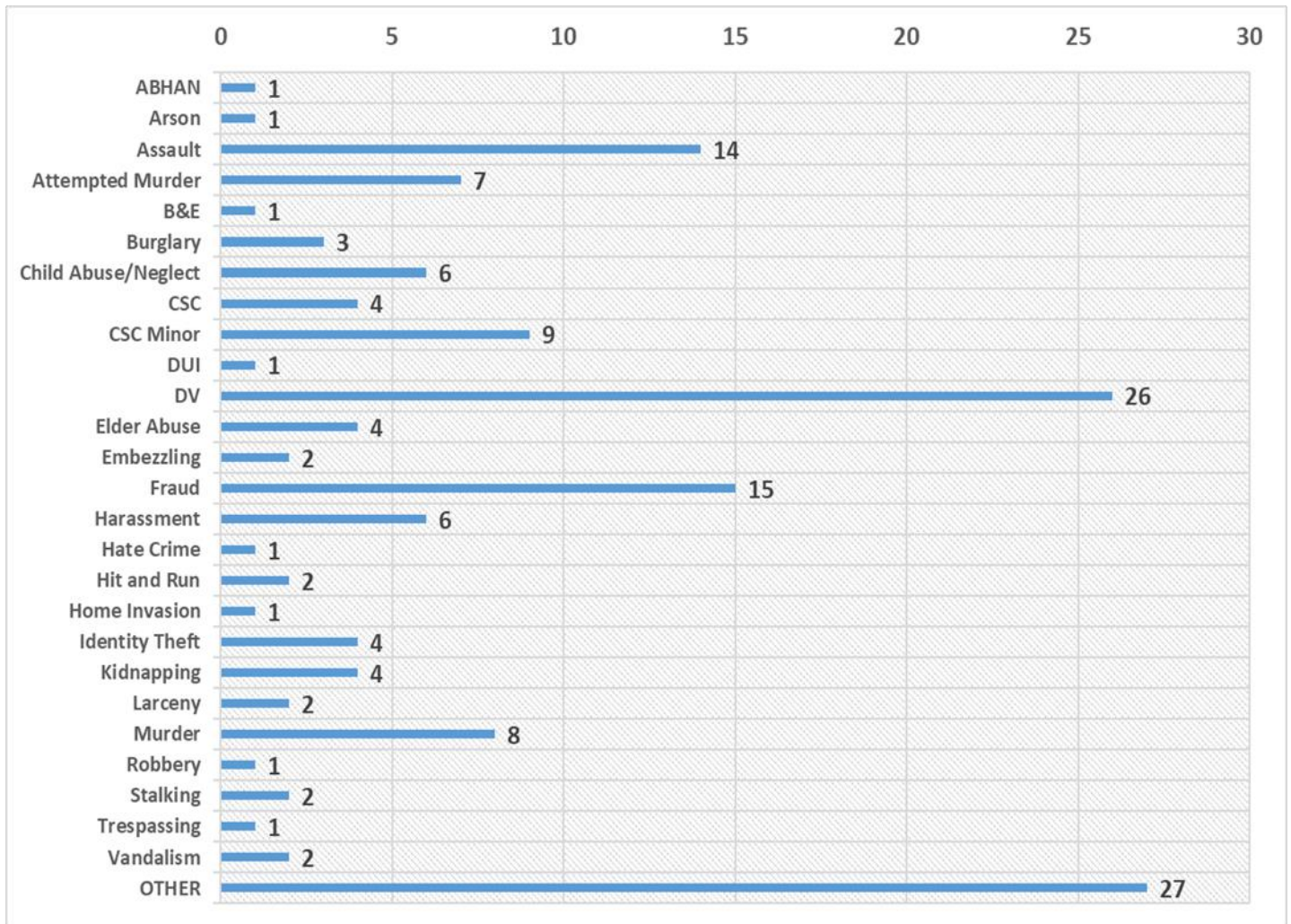
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|---------------------|---|
| Founded | The reported acts or part of the reported acts occurred. |
| Unfounded | The acts did not occur, or the acts did occur but were within the scope of authority for that individual, agency or entity. |
| Undetermined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

The majority of complaints CVO receives are deemed “Unfounded” since many crime victims do not clearly understand the duties or responsibilities an agency has to them. For example, we regularly hear from crime victims who believe an offender should serve more jail time than they received. We explain that that it is the proper role of the judge to determine sentencing, and that neither CVO nor the victim has the right to change a judge’s decision.

Cases submitted online from people other than South Carolina crime victims are deemed “Dismissed.”

Following each inquiry, we issue a report to the complainant and the agencies that are the subject of the complaint and make recommendations that, in our opinion, will assist all parties. The agencies respond regarding actions taken, if any, as a result of the Ombudsman’s report and recommendations, as provided by statute (*S.C. Code §16-3-1640*)

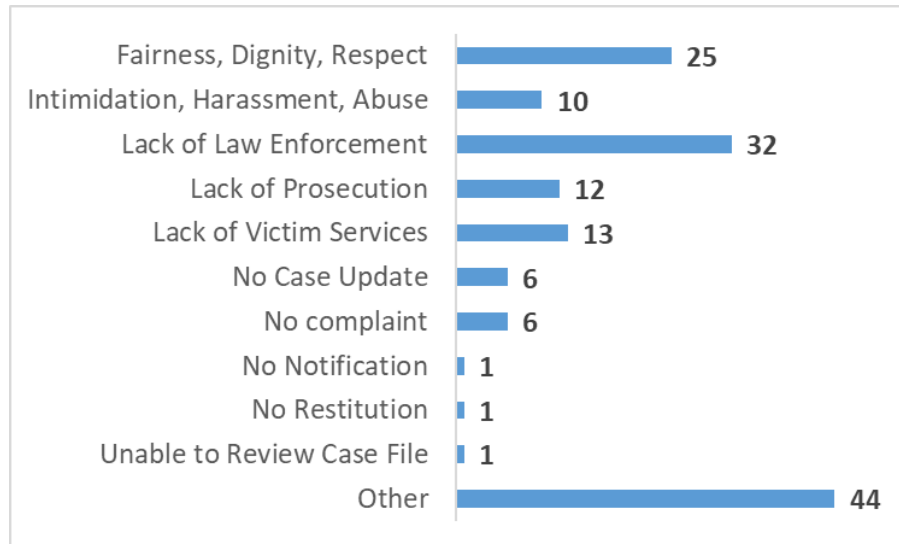
Types of Crimes – 152 Formal Complaint Submissions



STRIVE NOT TO BE A SUCCESS, BUT RATHER TO BE OF VALUE.

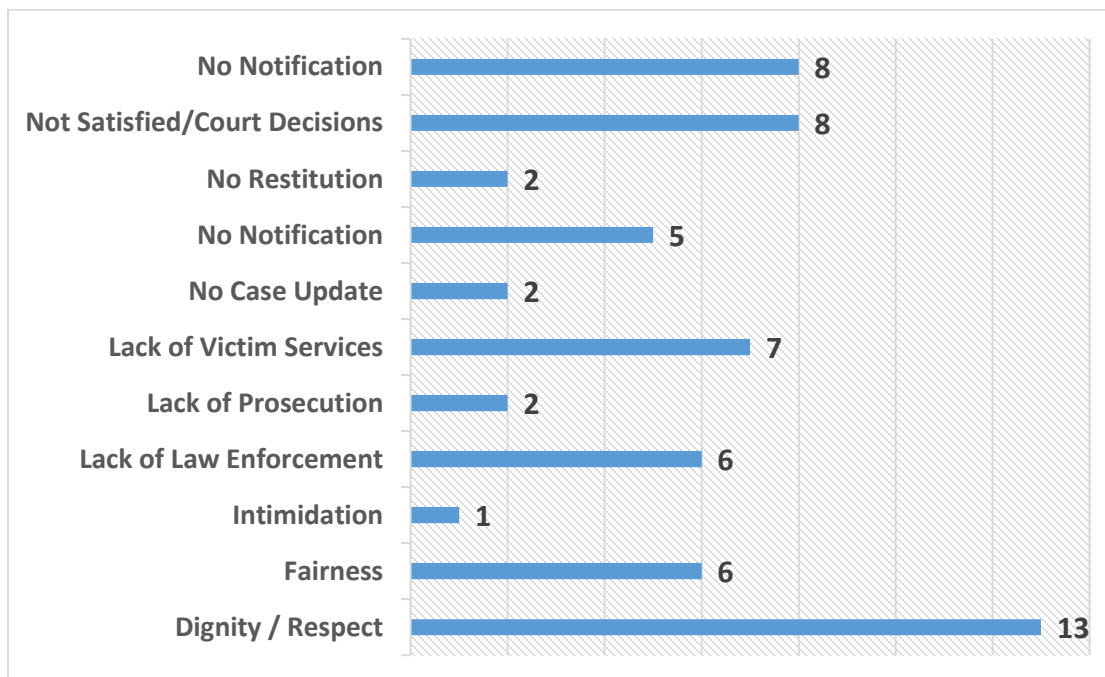
- ALBERT EINSTEIN

Allegations in 152 Formal Complaints:



How can a Formal Complaint contain no complaint? Anyone can submit one online. Submissions containing “No Complaint” and that are listed as “Other” above indicates someone has submitted a request for help with a civil issue or something other than a crime. Those cases are deemed “Dismissed” after we try to help the person, usually by providing a referral.

Type of Complaints FOUNDED



Formal Case Examples

Formal Case Summary 1

Crime: Domestic Violence 2nd Degree, Kidnapping, Burglary 1st Degree, Assault 1st Degree

Complaint: A Solicitor tendered a plea offer to defense counsel prior to conferring with a victim.

Subject of Complaint: The Solicitor

Scenario: The victim, who was pregnant and not cohabiting with the defendant, ended their relationship. One week later, the defendant disabled the electricity and broke into her home. He sexually assaulted and beat her, causing serious injuries. He also had prior DV convictions. The victim alleged that despite repeated requests, the assigned prosecutor did not confer with her prior to offering a plea agreement to defense counsel.

CVO Inquiry: We reviewed all emails that the victim sent to the Victim Advocate requesting to meet with the Solicitor. We sent a letter to the Solicitor requesting documentation of any meetings or correspondence with the victim prior to offering a plea. The Solicitor responded saying that their office communicated by email with the victim immediately after the crime, and she initially stated that she did not wish to participate in prosecuting the defendant. However, her later emails to the Victim Advocate (beginning one year prior to the plea) clearly expressed her change of mind, explaining that she was initially afraid to confront him and now wished to provide testimony, if needed. She wanted to speak to the Solicitor, but no conversation occurred.

Relevant Laws:

S.C. Constitution Article 1 Section 24(A)(7) victims of crime have the right to 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.

Victims of crime also have the constitutional right to “be treated with fairness, dignity and respect.”

S.C. Const. Article 1 Section 24(A)(1)

S.C. Code §16-3-1505 – Legislative intent “ . . . that the rights and services extended in this article to victims of and witnesses to a crime are honored and protected by law enforcement agencies, prosecutors, and judges *in a manner no less vigorous than the protections afforded criminal defendants; . . .*”

Caselaw and Legal Guidelines:

“The Fifth Circuit has concluded that “in passing the [Crime Victims’ Rights Act, 18 U.S.C. § 3771], Congress made the policy decision – which we are bound to enforce – that the victims have a right to inform the plea negotiation process by conferring with prosecutors before a plea agreement is reached.” In re Dean, 527 F.3d 391, 395 (5th Cir. 2008) (per curiam); see also Jordan v. Dep’t of Justice, 173 F.Supp.3d 44, 51 (S.D.N.Y. 2016) (Describing scope of the reasonable right to confer with prosecutor under the CVRA); Doe v. United States, 950 F.Supp.2d 1262, 1267 (S.D. Fla. 2013) (“the court concludes that the ‘reasonable right to confer ... in the case’ guaranteed by the CVRA at § 3771(A)(5) is properly

read to extend to the pre-charge stage of criminal investigations and proceedings, certainly where – as here – the relevant prosecuting authority has formally accepted a case for prosecution”).

“Prosecutors should make reasonable efforts to notify identified victims of, and consider victims’ views about, prospective plea negotiations. Prosecutors should make these reasonable efforts with a goal of providing victims with a meaningful opportunity to offer their views before a plea agreement is formally reached.” U.S. Department of Justice, Attorney General Guidelines for Victim and Witness Assistance 41 (2012). See also ABA Standards of Criminal Justice, Pleas of Guilty, Standard 14-3.1(e) – Responsibilities of the Prosecuting Attorney (“The prosecuting attorney should make every effort to remain advised of the attitudes and sentiments of victims and law enforcement officials before reaching a plea agreement.”)

Conclusion: Merriam-Webster Dictionary definition of disposition: *final arrangement*: settlement: the disposition of the case. It is essential that victims are involved in the disposition of their cases. The privilege of conferring grants victims the opportunity to collect and share relevant information regarding the crime with the prosecutor. It is important to note that conferring does not grant the victim authority over the prosecution process. Nonetheless, it does mandate that the prosecutor attentively listens to and addresses the concerns raised by the victim.

CVO believes the case would have had a different outcome if there was a meaningful conference prior to the State extending a plea offer. According to the victim, the Solicitor admitted as much when they finally met.

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

Recommendations and Results: CVO provided the Solicitor with research and caselaw stressing the importance of conferring with victims prior to offering pleas. We recommended that all prosecuting attorneys make every effort to confer with crime victims prior to offering a plea to defendants.

Formal Case Summary 2

Crime: CSC Minor

Complaint: A judge did not allow a victim to be heard during an offender’s probation revocation hearing.

Subject of Complaint: The Court

Scenario: A child was sexually assaulted by a Sunday School teacher, who was convicted, served time and was out on probation. During a probation revocation hearing, the judge declined to allow the victim’s mother to address the court.

CVO Inquiry: We sent the victim’s Formal Complaint to the Judge, and he responded immediately with an apology. He stated, “I immediately knew I did the wrong thing,” and asked what we recommended he do to rectify the situation.

Relevant Laws:

S.C. Constitution, Article I, Section 24 (C)(2) . . . The term "victim" also includes the person's spouse, parent, child, or lawful representative of a crime victim who is deceased, who is a minor or who is incompetent or who was a homicide victim or who is physically or psychologically incapacitated.

S.C. Constitution, Article I, Section 24 (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 treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victim's constitutional rights, provided by statute
- (5) be heard at any proceeding involving a post-arrest release decision, a plea, or sentencing;

Conclusion: The complaint against the Judge was **FOUNDED**.

Recommendations and Results: The Judge stated he would allow all victims to speak in future cases. We asked the Judge whether he would be willing to apologize to the victim. He agreed and sent her a letter of apology. The victim was satisfied.

Formal Case Summary 3

Crime: Assault and Battery 1st Degree (4 victims), Malicious Injury to Personal Property

Complaint: Law enforcement did not arrest a suspect who ran over a group of people with his car, severely injuring one and endangering a baby.

Subject of Complaint: Law enforcement and eventually, the Solicitor and State Agency

Scenario: The complainant alleged an offender ran over four people with his car, including a person who was holding his infant grandson. Some of the victims had severe injuries. The offender crashed into a fence and drove over other items in the victims' yard. The victim was irate and alleged that law enforcement did not charge this suspect with any crime.

CVO Inquiry: CVO immediately received an incident report from police that listed the following charges which were made on the day of the incident: Assault 2d, Assault 3d and Damage to Personal Property (vehicle and property). CVO verified the case had been sent to the Solicitor's Office for prosecution.

CVO spoke numerous times with the victims who denied knowing anything about the offender's arrest or prosecution.

CVO contacted the Solicitor's Office and obtained the case file. CVO learned that after review, the Solicitor's team believed the charges should be increased to an Assault and Battery 1st Degree (AB1st)

for all four victims, as well as Malicious Injury to Personal Property and should be handled by a state agency through a “Diversion Contract.”

When sending the paperwork to the state agency, the Solicitor filled out the Solicitor’s Decision Form and crossed out a reference to “AB2d” and added “AB1st.” The case was assigned to a Community Specialist at the state agency.

CVO requested and received the state agency’s file. We determined that the Community Specialist entered incorrect charges for the offender, inserting the original charges listed on the police incident report rather than the Solicitor’s recommended charges. Additionally, there was no evidence that anyone from the state agency contacted any of the victims. Included in the file were unsigned letters from the Community Specialist (who is not a certified Victim Service Provider) addressed to three of the four victims. Each letter listed incorrect charges. The file contained no notes or any evidence of an attempt to communicate with the victims. All four victims alleged they did not hear from anyone at the state agency.

The Community Specialist met with the offender and signed a Diversion Contract. The Contract was sent to the Solicitor’s Office for a signature; however, the Solicitor did not notice the incorrect charges listed in the Contract.

The offender was adjudicated on one count of AB3d and was ordered to complete 15 hours of community service.

Relevant Laws:

S.C. Constitution, Article I, Section 24 (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 . . . of the case;

Victim Service Providers:

S.C. Code §16-3-1420 (1) “Victim service provider” means 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;

S.C. Code §16-3-1410(C) Public crime victim assistance programs shall ensure that all victim service providers employed in their respective offices are certified through the department.

Solicitors:

S.C. Code §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.

State Agency:

S.C. Code §16-3-1540. Department of Juvenile Justice to confer with victims before taking certain actions.

(A) The Department of Juvenile Justice, upon referral of a juvenile accused of committing an offense involving one or more victims, must make a reasonable effort to confer with each victim before:

- (1) placing the juvenile in a diversion program;
- (2) issuing a recommendation for diversion;
- (3) referring the juvenile to the prosecuting agency for prosecution;
- (4) issuing a recommendation for evaluation at the agency's reception and evaluation center;

or

- (5) taking other action.

Diversion Programs:

S.C. Code §16-3-1525 (L) A diversion program, except a diversion program administered by the South Carolina Prosecution Coordination Commission or by a circuit solicitor, reasonably must attempt to notify the victim of a crime prior to the defendant's release from the program unless the defendant is released to a law enforcement agency.

Conclusion: This case uncovered a major systemic failure of the state agency's victim services department. Victim Service Providers were not regularly assigned to victims to provide services such as information about their rights, restitution or compensation, Victim Impact Statements, social services or counselors as prescribed by law. By the end of our inquiry, the victims still had no idea that this case was concluded and where to find information about their status as victims. The family had been trying to obtain custody of the infant involved, and this lack of information, accountability and services exacerbated the family court process. It was difficult for them to comprehend that they had been completely shut out of the criminal justice process.

The complaint against Law Enforcement was **UNFOUNDED**.

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

The complaint against the State Agency was **FOUNDED**.

Recommendations and Results: The Solicitor's Office implemented a new procedure to notify victims when transferring cases to a Diversion Program.

CVO made the following recommendations to the state agency:

1. Victim Service Providers, rather than Case Managers, should send victims a letter immediately upon receipt of the Solicitor's file. The letter should be updated to reflect information about the Diversion process, the role of victim services, and a sample Victim Impact Statement. All letters to crime victims should be signed and notes should be kept documenting all contacts with victims. Any written Victim Impact Statements must be retained in the case file.

2. Victim Service Providers must confer with victims regarding their recommendations about the Diversion Contract and refer victim's wishes and concerns to the Case Manager for follow up.
3. Develop a policy which traces events involving crime victims and assign specific duties related to each event to be undertaken by certified VSPs.

The agency Director reported they intended to implement all recommendations via specific, measurable steps.

Formal Case Summary 3

Crime: Murder, Attempted Murder

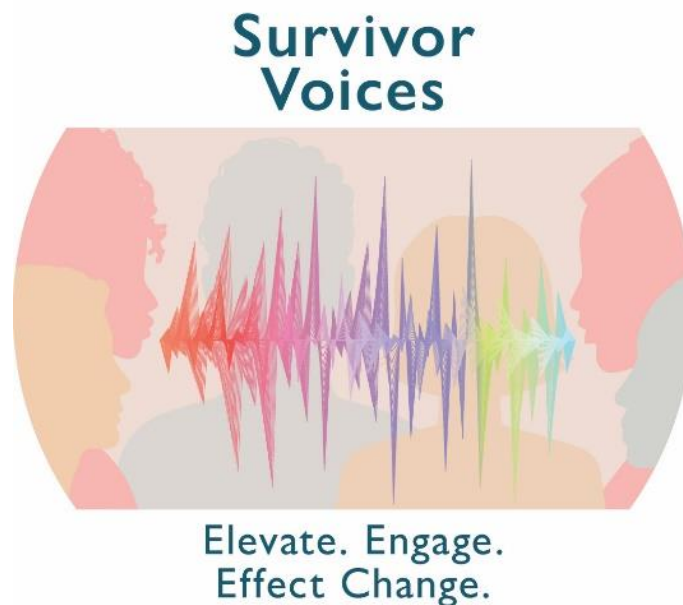
Complaint: A caller reported that his wife's murderer was again arrested for attempted murder while out on bond, but the Assistant Solicitor said they were not able to revoke bond.

Subject of Complaint: Solicitor's Office

CVO Inquiry: CVO contacted the Assistant Solicitor who told us they were attempting to revoke the suspect's bond. They had advised the family that it would take some time to hold the hearing, but the family insisted the hearing be held immediately.

Outcome: We explained to the family the entire bond revocation process and confirmed that the Solicitor's Office would hold the hearing as expeditiously as possible. We helped the family better understand the limitations of the Solicitor's Office to immediately schedule hearings.

The complaint against the Solicitor's Office was **UNFOUNDED.**



South Carolina Crime Victim Ombudsman

Established in 1994 by S.C. Code §§16-3-1620-1690, the Office of the Crime Victim Ombudsman is statutorily defined:

SECTION 16-3-1610. Definitions.

As used in this article:

- (1) "Criminal and juvenile justice system" means circuit solicitors and members of their staffs; the Attorney General and his staff; law enforcement agencies and officers; adult and juvenile probation, parole, and correctional agencies and officers; officials responsible for victims' compensation and other services which benefit victims of crime, and state, county, and municipal victim advocacy and victim assistance personnel.
- (2) "Victim assistance program" means an entity, whether governmental, corporate, nonprofit, partnership, or individual, which provides, is required by law to provide, or claims to provide services or assistance, or both to victims on an ongoing basis.
- (3) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as the result of an act by someone else, which is a crime. The term includes immediate family members of a homicide victim or of any other victim who is either incompetent or a minor and includes an intervenor.

SECTION 16-3-1620. Department of Crime Victim Ombudsman.

(A) The Department of Crime Victim Ombudsman is created in the Office of the Attorney General, South Carolina Crime Victim Services Division. The Crime Victim Ombudsman is appointed by the Director of the Crime Victim Services Division.

(B) The Crime Victim Ombudsman shall:

- (1) 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 are necessary as determined by the ombudsman;
- (2) act as a liaison between elements of the criminal and juvenile justice systems, victim assistance programs, and crime victims when the need for liaison services is recognized by the ombudsman; and
- (3) 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.

SECTION 16-3-1630. Ombudsman; responsibilities; authority; annual report.

Upon receipt of a written complaint that contains specific allegations and is signed by a victim of criminal activity within the state's jurisdiction, the ombudsman shall forward copies of the complaint to the person, program, and agency against whom it makes allegations, and conduct an inquiry into the allegations stated in the complaint.

In carrying out the inquiry, the ombudsman is authorized to request and receive information and documents from the complainant, elements of the criminal and juvenile justice systems, and victim assistance programs that are pertinent to the inquiry. Following each inquiry, the ombudsman shall issue a report verbally or in writing to the complainant and the persons or agencies that are the object of the complaint and recommendations that in the ombudsman's opinion will assist all parties. The persons or agencies that are the subject of the complaint shall respond, within a reasonable time, to the ombudsman regarding actions taken, if any, as a result of the ombudsman's report and recommendations.

The ombudsman shall prepare a public annual report, not identifying individual agencies or individuals, summarizing his activity. The annual report must be submitted directly to the Governor, General Assembly, elements of the criminal and juvenile justice systems, and victim assistance programs.

SECTION 16-3-1640. Confidentiality of information and files.

Information and files requested and received by the ombudsman are confidential and retain their confidential status at all times. Juvenile records obtained under this section may be released only in accordance with provisions of the Children's Code.

SECTION 16-3-1650. Cooperation with the criminal and juvenile justice systems and victim assistance programs.

All elements of the criminal and juvenile justice systems and victim assistance programs shall cooperate with the ombudsman in carrying out the duties described in Sections 16-3-1620 and 16-3-1630.

SECTION 16-3-1660. Grounds for dismissal.

A victim's exercise of rights granted by this article is not grounds for dismissing a criminal proceeding or setting aside a conviction or sentence.

SECTION 16-3-1670. Purpose.

This article does not create a cause of action on behalf of a person against an element of the criminal and juvenile justice systems, victim assistance programs, the State, or any agency or person responsible for the enforcement of rights and provision of services set forth in this chapter.

SECTION 16-3-1680. Recommendation of regulations.

The Department of Crime Victim Ombudsman through the Crime Victim Services Division may recommend to the Attorney General those regulations necessary to assist it in performing its required duties as provided by this chapter.

SECTION 16-3-1690. Submission of complaints; appeals.

Complaints regarding any allegations against the Office of the Attorney General, Crime Victim Services Division or any of its affiliated departments concerning crime victim services should be submitted in writing to the Crime Victim Ombudsman, who shall cause a rotating three-person panel of the Crime Victim Services Coordinating Council chosen by him to record, review, and respond to the allegations. Appeal of the three-person panel's response or any decision made by the panel regarding the allegations will be heard by the State Inspector General under the authority provided by the provisions of Chapter 6, Title 1. The State Inspector General shall provide the procedures for this appeal process, including, but not limited to, a written finding at the end of the appeal process, which must be provided to the complainant and to the Attorney General and the Director of the Crime Victim Services Division.

CONSTITUTION OF THE STATE OF SOUTH CAROLINA

Passed January 22, 1998

ARTICLE I SECTION 24 Victims' Bill of Rights

(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:

- (1) be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victim's constitutional rights, provided by statute;
- (2) be reasonably informed when the accused or convicted person is arrested, released from custody, or has escaped;
- (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;
- (4) be reasonably informed of and be allowed to submit either a written or oral statement at all hearings affecting bond or bail;
- (5) be heard at any proceeding involving a post-arrest release decision, a plea, or sentencing;
- (6) be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process;
- (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;
- (8) have reasonable access after the conclusion of the criminal investigation to all documents relating to the crime against the victim before trial;
- (9) receive prompt and full restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury, including both adult and juvenile offenders;
- (10) be informed of any proceeding when any post-conviction action is being considered, and be present at any post-conviction hearing involving a post-conviction release decision;
- (11) a reasonable disposition and prompt and final conclusion of the case;
- (12) have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and have these rules subject to amendment or repeal by the legislature to ensure protection of these rights.

(B) Nothing in this section creates a civil cause of action on behalf of any person against any public employee, public agency, the State, or any agency responsible for the enforcement of rights and provision of services contained in this section. The rights created in this section may be subject to a writ of mandamus, to be issued by any justice of the Supreme Court or circuit court judge to require compliance by any public employee, public agency, the State, or any agency responsible for the enforcement of the rights and

provisions of these services contained in this section, and a willful failure to comply with a writ of mandamus is punishable as contempt.

(C) For purposes of this section:

(1) A victim's exercise of any right granted by this section is not grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.

(2) "Victim" means a person who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a crime against him. The term "victim" also includes the person's spouse, parent, child, or lawful representative of a crime victim who is deceased, who is a minor or who is incompetent or who was a homicide victim or who is physically or psychologically incapacitated.

(3) The General Assembly has the authority to enact substantive and procedural laws to define, implement, preserve, and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.

(4) The enumeration in the Constitution of certain rights for victims shall not be construed to deny or disparage others granted by the General Assembly or retained by victims.

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We welcome any feedback, comments, concerns or questions regarding this Annual Report and/or the services we provide. Please feel free to contact us at **803-734-0357** or **CVO@SCAG.gov**.

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**“FOR TOO LONG, THE VICTIMS HAVE
BEEN THE FORGOTTEN PERSONS OF
OUR CRIMINAL JUSTICE SYSTEM.**

**THEY HAVE BEEN TRANSFORMED INTO A
GROUP OPPRESSIVELY BURDENED BY A
SYSTEM DESIGNED TO PROTECT THEM.”**

PRESIDENT RONALD REAGAN



Attorney General Alan M. Wilson
State of South Carolina

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