

Governor's Office of the Crime Victims' Ombudsman
Annual Report FY 2013-2014



Message from the Crime Victims' Ombudsman

Even though we hear about crime as an every-day occurrence, most people never stop to think about the people harmed by each of those crimes – the victims. Nor do they consider what these victims might need to rebuild their lives; to recover from what may have been a profoundly traumatic experience.

Each family member, friend and loved one of a victim is also effected by the crime. They too are thrust into a new reality; something they must come to terms with. They must also rebuild their lives that have been forever changed by the devastating event. **Helping victims navigate this new reality is the central focus of South Carolina's Victim Service Providers (VSPs).**

Crime victims look to VSPs to help them locate their basic needs, such as safety, food, counseling and medical services. They rely on VSPs to help them understand and deal with what's next; the investigation, the criminal justice system, and putting the pieces of their lives back in order. The power of victims' personal stories – which tell us of pain and suffering, but also of heroism, healing and inspiring journeys toward justice – drive VSPs and criminal justice professionals to new heights in their efforts to provide comprehensive, supportive services.

This year, South Carolina celebrates the 30th anniversary of the passage of basic rights provided for innocent victims of crime. Our state boasts some of the strongest constitutional and statutory rights and mandated services for victims in the Nation. Over 2,800 registered and well-trained VSPs serve our state in law enforcement, Solicitors' offices, state agencies, non-profit organizations, and in our courts and detention centers. These dedicated public servants honor victims by providing comprehensive, quality services; by giving them the information they need to make their own choices; and by enforcing legal rights and protections in the justice system.

Without the collaboration and cooperation of each segment of the criminal justice system, victims fall through the cracks. Funding for most victim service programs comes from offenders' fines, fees, assessments and surcharges. It is a sensible system: holding offenders financially accountable for the harm they caused victims. However, all too often judges eliminate criminal's fines (especially for domestic violence offenders in lieu of them attending a batterer treatment program), thereby reducing crucial funding for local victim service programs. Even worse, there is often little accountability for batterers who do not complete that court-ordered treatment. In some jurisdictions, batterers are not brought back before a judge to either pay their fine or do their time. What message are we sending to these violent offenders, not to mention the victims?

South Carolina's victim services system is an effective, collective response to all victims of crime, recognizing the harm they've sustained, helping them rebuild their lives. When all entities work together, victims are empowered and criminals are held accountable for the harm they cause.

The staff of the Crime Victims' Ombudsman and the Office of Victim Services Education and Certification welcomes all requests for information, assistance and training. We are honored to serve alongside of you to ensure that South Carolina continues to respond effectively, and with compassion, to those in need.

Veronica Swain Kunz
Director
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), provides oversight of training, education and certification for all Victim Service Providers and Notifiers in the state.

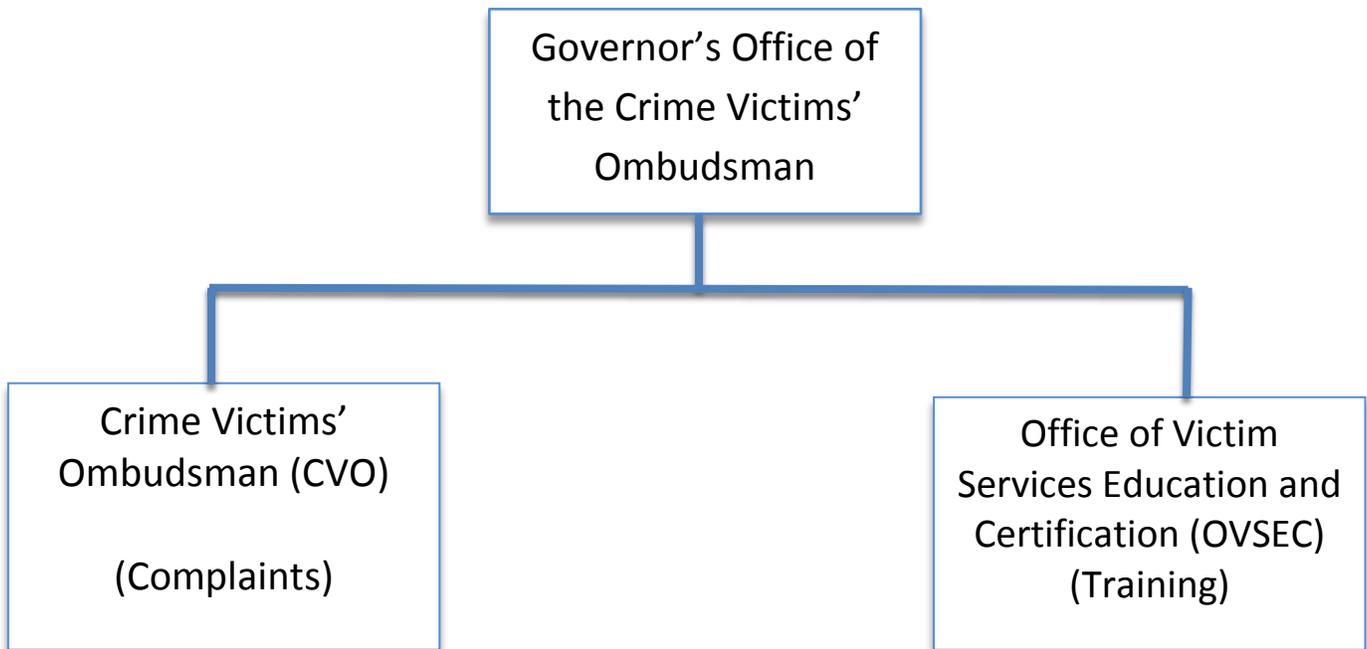
Vision



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

Crime Victims' Ombudsman Overview

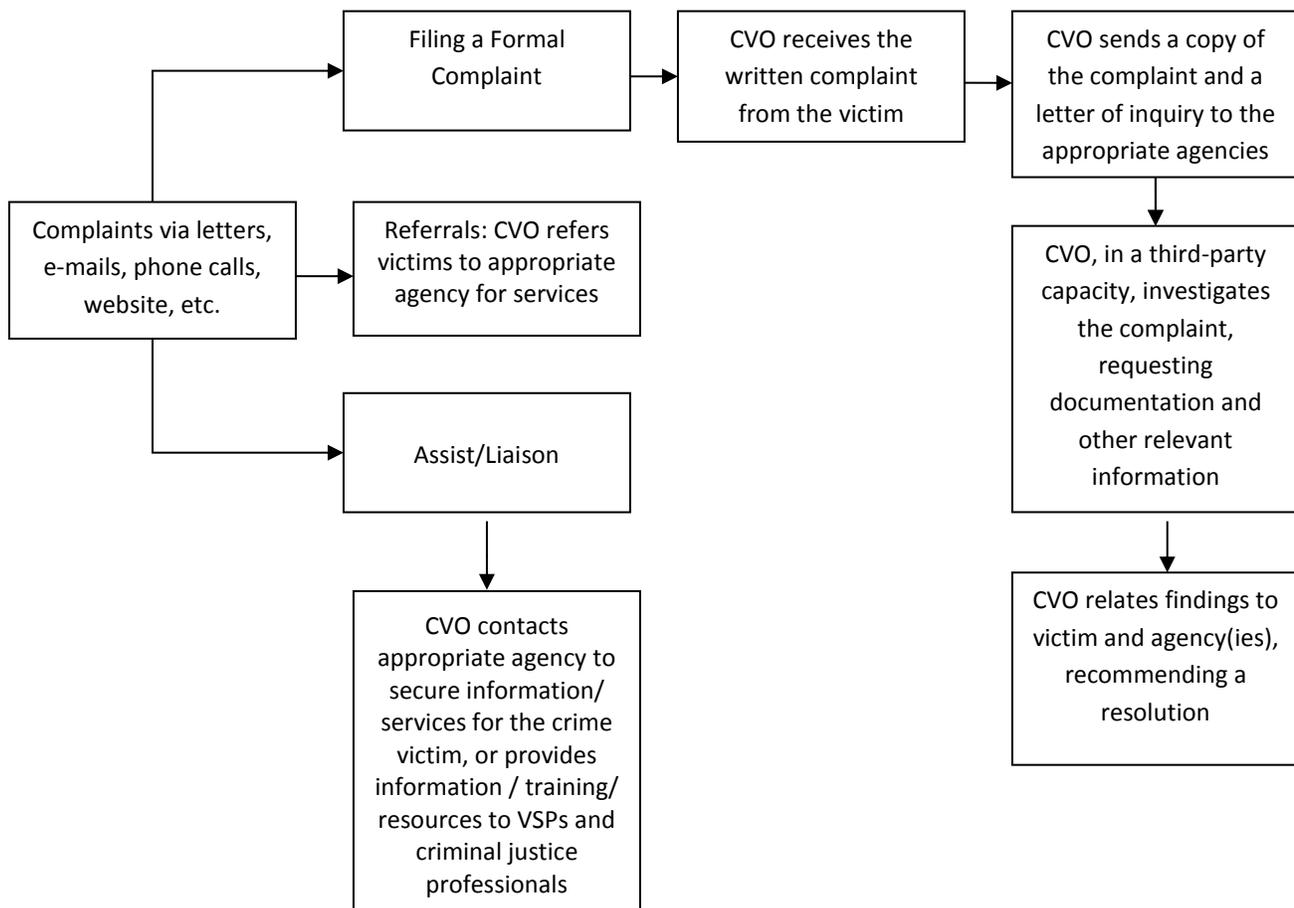
The Office of the Crime Victims' Ombudsman is comprised of two divisions with distinct responsibilities: (1) The Crime Victims' Ombudsman (CVO) investigates and responds to complaints from victims of crime; (2) The Office of Victim Services Education & Certification (OVSEC) certifies all South Carolina Victim Service Providers (VSPs) and Notifiers/Support Staff, approves trainings for continuing education purposes, and maintains records of all VSPs and trainings.



At A Glance...

- 2,435 phone calls received by CVO and OVSEC
- 3,516 emails responded to by OVSEC (avg. 293 per month)
- 443 Referrals/Assists processed by CVO staff
- 127 Formal Cases investigated
- 857 new VSPs and Notifiers registered with OVSEC in 2013
- 2,855 total active VSPs and Notifiers in 2013
- 213 trainings were approved by OVSEC (many trainings are repeated often, requiring separate processing by OVSEC for each session)
- 1,200 VSPs / Notifiers/ Criminal Justice professionals trained by CVO/OVSEC
- 92 trainings advertised on OVSEC's website

General Overview
How Complaints Are Handled in the CVO



The primary responsibility of the CVO is to investigate and respond to complaints filed by victims of crime. Complaints may be made verbally or in writing, and the CVO, as mandated by law, responds to each complaint in one of the following three ways:

1) Referrals

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

2) Assists/Liaison Services

Serve 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 Complaints

Review and attempt to resolve written complaints made by crime victims against elements of the South Carolina criminal and juvenile justice systems and/or victim assistance programs.

Most questions and concerns from victims of crime are easily remedied using the first and second method. Most complaints are resolved quickly through discussions between the CVO, the crime victim and the subject of the complaint. However, should the victim request a formal inquiry, they must file a written, signed complaint. CVO established an online, user-friendly complaint form this year, which led to an increase of 26% of Formal Complaints received. By choosing this option, the CVO has the authority to initiate a formal inquiry.

During a formal inquiry, the CVO sends the subject of the complaint the following: 1) a copy of the victim's complaint; and 2) a letter requesting their assistance to provide full information about the issue listed in the complaint. Once the CVO has gathered all the necessary information, the CVO reports our findings to both parties. The report can be issued either verbally or in writing, and contains the CVO's findings, disposition and recommendations regarding compliance with victims' rights. 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 CVO recommendations.

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 provides the name and contact information of the appropriate law enforcement victim advocate (LEVA) to the victim, and refers the victim to the LEVA for assistance. The CVO also advises the victim that s/he may look for information on the State Office of Victim Assistance (SOVA) website, or contact them directly. CVO recommends if neither of those options satisfy the victim, call CVO back.

Assist

Victim is upset because the Assistant Solicitor handling the case won't return calls. S/he has left several messages for Solicitor to call regarding case.

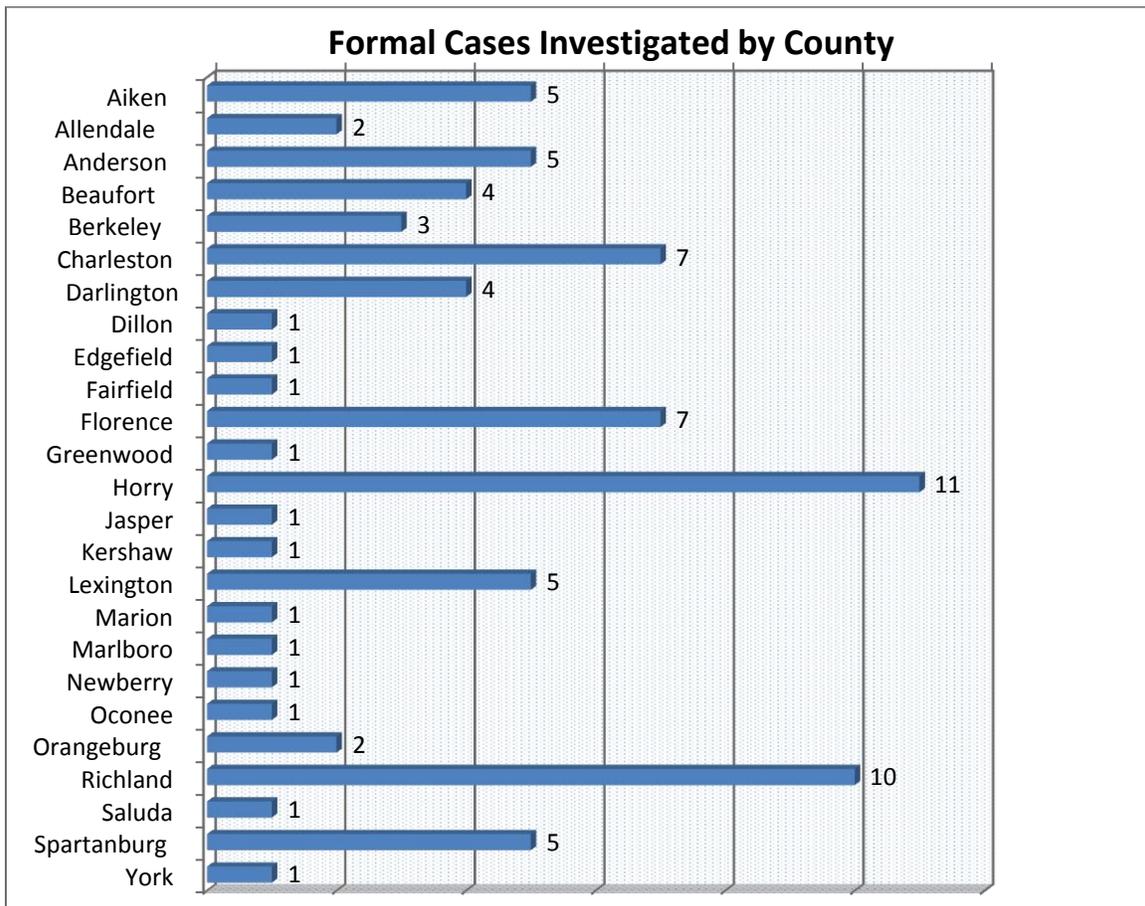
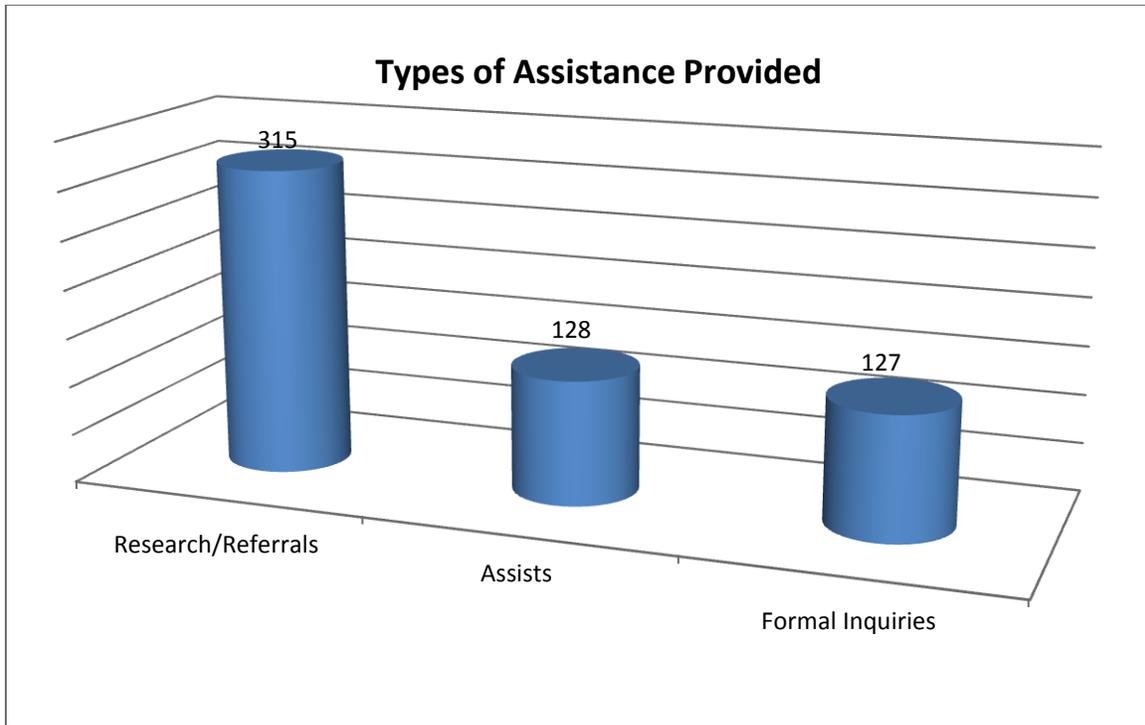
CVO will offer to call the Solicitor's office and advise the Solicitor and/or victim advocate of the victim's concerns and request someone to return the victim's call. CVO then advises the victim that s/he should receive a phone call and, if not, to alert us for further assistance.

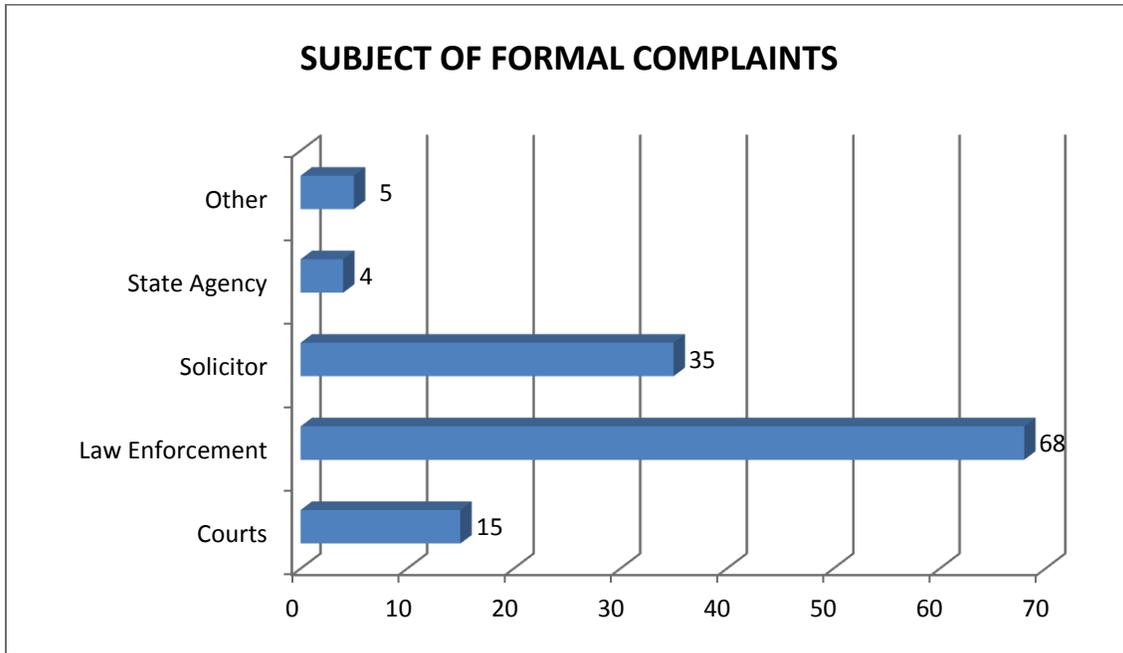
Formal

Victim was not notified of the release of the offender from a detention center.

CVO advises the victim of the option to file a Formal Complaint. After filing, CVO will initiate an inquiry to determine whether or not this victims' rights violation occurred.

Fiscal Year 2013-2014 Statistics





A crime victim may file a complaint* against any entity, individual and/or victim service program 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

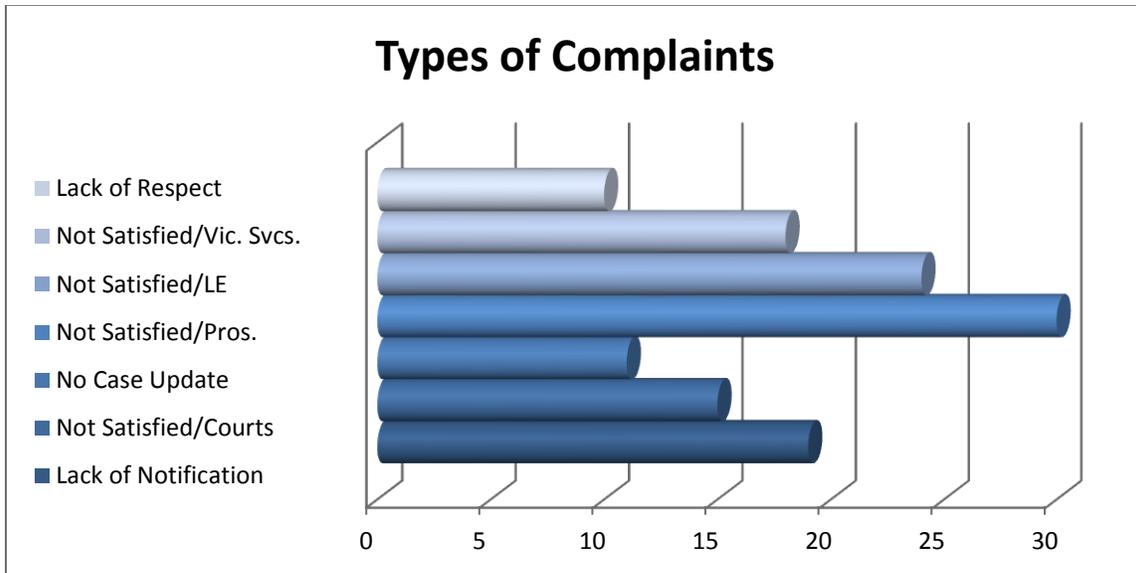
Summary/Municipal Courts: All Magistrate and Municipal Judges, their clerks and staff

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/jails

*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.

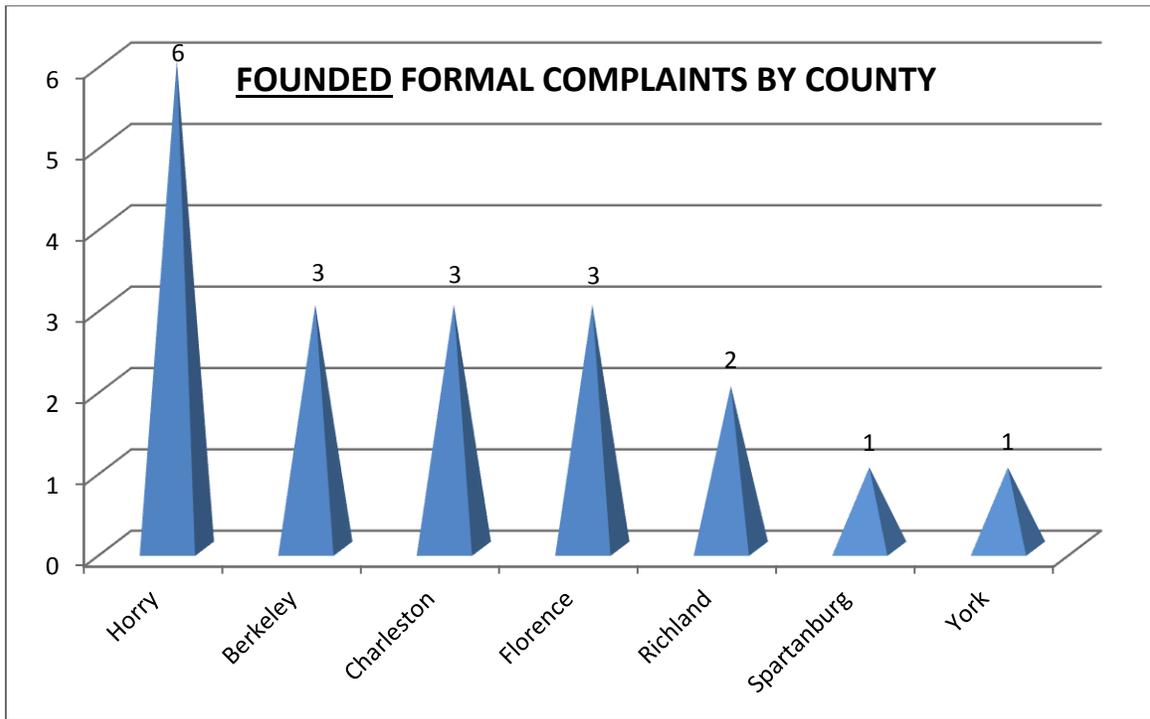


The number of **complaints** per fiscal year is always more than the number of **Formal Cases opened** by the CVO because a victim(s) may have several complaints for the same criminal event, yet only one case is opened by the CVO. For example, a victim may have a complaint about not having been notified by a magistrate about a hearing, and the victim may also complain that they were not notified by the detention center about the offender’s release. One case would be opened, but with two complaints against two separate agencies (Court and Detention Center).

Of these Formal Complaints, **19** were **Founded**, **95** were **Unfounded**, **5** were **Not Justified**, and **8** were **Dismissed**. Formal Complaints can take up to three months to investigate, necessitating an average of 20 contacts (calls, emails, letters) with the agency(ies) in question. The vast majority of complaints CVO receives are deemed “Unfounded” because crime victims do not clearly understand the legal responsibilities an agency has to them. For example, we regularly hear from crime victims who believe an offender should serve more jail time than s/he received. We explain that that it is the proper role of the judge to determine sentencing, and that neither CVO nor the victim can change a judge’s determination.

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.



Case Examples

The following cases are examples of the types of possible resolutions of Formal Complaints.

Case Summary #1

Crime: Felony DUI, Reckless Homicide

Complaint: A Judge changed a defendant's sentence without allowing the victim to be notified, present and heard (No Notification/ Courts)

Subject(s) of Complaint: Circuit Court Judge

Scenario: A drunken 19-year-old sped the wrong way up an Interstate ramp and struck and killed a victim in a head-on car crash. The offender pled guilty to reckless homicide and felony DUI involving death, and he was originally sentenced to spend 10 years in jail. The judge cut the offender's jail time to five years, *without holding a hearing*, after being asked to reconsider by the defense attorney. At issue was the way in which the judge handled the re-sentencing. The victim's family was not notified, present or heard about this decision.

An inquiry was opened against the Circuit Court Judge.

The Solicitor contended that under the state's Victims' Bill of Rights, the victim's family should have had a chance to attend and speak when the offender's sentence was reconsidered. The Judge agreed to hold a hearing to comply with the victims' Constitutional right to be present and heard, although he said, "I think that I was within the law by not having a hearing, but I don't want there to be any question about anyone being denied a right to be heard, under the Constitution of this state."

The result was that the victim's family was afforded their legal right to be heard and call for a tougher sentence — but the sentence was not changed.

Relevant Law

Issuing a post-trial ruling without holding a hearing is allowed under the SC Rules of Criminal Procedure, but the rule conflicts with the following Constitutional rights afforded to victims of crime:

SC Constitution, Article1, 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:

(5) be heard at any proceeding involving a post-arrest release decision, a plea, or sentencing;

(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;

(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.

The CVO requested an Opinion from the Attorney General to determine whether the SC Rules of Criminal Procedure allowing post-trial motions without a hearing permit a sentence reduction by a judge without prior notification to the victim or opportunity for the victim to be heard concerning such reduction. On February 24, 2014, the Attorney General issued an opinion stating ***"This Office believes a court will find neither the SC Rules of Criminal Procedure nor any statutory law may be used in such a way that violates State Constitutional rights belonging to the victim of a crime."*** The Attorney General's Opinion went on to explain: "Rule 37 of the SC Rules of Criminal Procedures states "these rules shall apply ... within the limits of the jurisdiction and the powers of the court provided by law" That would imply the Rules of Criminal Procedure could not undermine rights belonging to victims of a crime provided in the State Constitution."

Conclusion

The Circuit Court Judge erred as a matter of law in sentencing the offender without giving the victims the right to be notified, present and heard.

This case was FOUNDED.

Case Summary # 2

Crime: Grand Larceny

Complaint: The Prosecutor accepted a plea and held a hearing without allowing the victim to be notified, present or heard. The Judge did not verify that the Solicitor notified the victim about the hearing. (Not Satisfied/ Prosecution, No Notification, Not Satisfied/Courts)

Subject(s) of Complaint: Solicitor, Magistrate Court

Scenario: Three expensive pieces of machinery were stolen from the home of a crime victim on separate dates. A suspect was arrested and charged with burglary. The victim submitted a Formal Complaint to this office alleging that the prosecutor did not confer with her before he accepted a plea bargain, and that she was not notified of the hearing. The offender was released on probation. Additionally, the day after the offender was released, the victim's home was burglarized again.

A formal inquiry was conducted with the assistance of the Solicitor and Court.

The Solicitor acknowledged that the offender accepted a guilty plea to Receiving Stolen Goods and was given a sentence of probation, and was ordered to pay restitution. He admitted that, "due to congestion of the term of court, the Assistant Solicitor assigned to this case failed to contact the victim before the defendant pled guilty."

After being notified of the error by the CVO, the Solicitor apologized over the phone and in writing to the victim. He also submitted a letter to the SC Department of Probation, Parole and Pardon Services "to ensure that the office stringently monitors the offender's behavior while on probation, particularly the payment of restitution." The Assistant Solicitor also apologized in writing to the victim, admitting that he should not have lowered the charges to "receiving stolen goods" from burglary. All documents were submitted to the CVO for review.

The Solicitor also contacted the officer in charge of investigating the newest burglary and requested he investigate the offender for that crime.

The Judge stated he did not remember whether or not he asked the Solicitor if the victim had been notified about the hearing, but verified that it was his common practice. Because CVO was unable to obtain a copy of the transcript of this hearing, we were unable to ascertain whether or not the judge asked the prosecutor if the victim had been given reasonable notice to attend the hearing in accordance with SC Code §16-3-1550(D).

Relevant Law

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 informed of and present at any criminal proceedings** which are dispositive of the charges where the defendant has the right to be present;

(5) **be heard at** any proceeding involving a post-arrest release decision, **a plea**, or sentencing.

(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;

SC Code §16-3-1545(H) The prosecuting agency must discuss a case with the victim. **The prosecuting agency must confer with each victim about** the disposition of the case including, but not limited to, diversions and **plea negotiations**.

SC Code §16-3-1545(I) **The prosecuting agency must attempt to notify each victim of each hearing, trial, or other proceeding.** This notification must be made sufficiently in advance to allow the victim to exercise his rights contained in this article. When proceedings are canceled or rescheduled, the prosecuting agency must reasonably attempt to inform victims and witnesses in a timely manner.

SC Code §16-3-1550(D) The circuit or family court judge must recognize and protect the rights of victims and witnesses as diligently as those of the defendant. **A circuit or family court judge, before proceeding with a trial, plea, sentencing, or other dispositive hearing in a case involving a victim, must ask the prosecuting agency to verify that a reasonable attempt was made to notify the victim sufficiently in advance to attend. If notice was not given in a timely manner, the hearing must be delayed for a reasonable time to allow notice.**

Conclusion

The Solicitor erred as a matter of law by not conferring with the victim before a plea was entered, and by not notifying the victim of the plea hearing. CVO was not able to definitively ascertain whether or not the Judge verified notification of the victim with the Solicitor at the hearing.

DISPOSITION:

Not Satisfied/ Prosecution: **FOUNDED**

No Notification: **FOUNDED**

Not Satisfied/Courts: **NOT JUSTIFIED**

Case Summary # 3

Crime: Kidnapping, Attempted Murder, Criminal Sexual Conduct

Complaint: Law enforcement did not properly investigate crimes against the victim; the Solicitor did not correctly charge the offender; the Judge did not sentence the offender correctly; and each entity treated the victim with disrespect (Lack of Law Enforcement, Lack of Prosecution, Not Treated with Dignity/Respect)

Subject(s) of Complaint: Law Enforcement, Solicitor and General Sessions Court

Scenario: In 2001, a woman reported that her husband had kidnapped, beaten and raped her. This year, she filed a Formal Complaint with the CVO claiming the offender was not properly charged or prosecuted and had not been punished for the crimes he committed against her.

An inquiry was opened with the cooperation of Law Enforcement, Solicitor and the General Sessions Court.

Since the incident occurred so many years ago, it took CVO over twenty-five telephone calls and at least fifty emails to ascertain what occurred in this case.

On the date of the incident, law enforcement took the survivor's and witnesses statements, recorded evidence, and transported the woman and her three children to the local domestic violence shelter. Days later, the woman and her children relocated to another state. She did not maintain contact with law enforcement or prosecutors because she was afraid of her offender and wished to remain in hiding.

The offender was charged with and convicted of criminal domestic violence and served time in jail for the crime.

When CVO explained the outcome of the case, the survivor vehemently disagreed with law enforcement and prosecution's decision not to charge the offender with kidnapping, attempted murder and criminal sexual conduct. She filed a pro se civil lawsuit against elements of the criminal justice system, the offender and his family. CVO worked diligently with this survivor to help her understand law enforcement and prosecutors' duties, as well as her rights and responsibilities as a victim of crime.

Relevant Law

SC Code §16-3-1515(A) A victim or prosecution witness who wishes to exercise his rights under this article or receive services under this article, or both, must provide a law enforcement agency, a prosecuting agency, a Summary court judge, the Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, or the Department of Juvenile Justice, as appropriate, his legal name, current mailing address, and current telephone number upon which the agency must rely in the discharge of its duties under this article.

(C) A victim who wishes to be present for any plea, trial, or sentencing must notify the prosecuting agency or Summary court judge of his desire to be present. This notification may be included in a written victim impact statement.

Conclusion: It is the duty of a crime victim to provide updated contact information to the appropriate criminal justice entity in order to exercise his/her legal rights. Law enforcement, the Solicitor and the courts did not violate this crime victim's rights.

Not Satisfied/ Law Enforcement:	<u>UNFOUNDED</u>
Not Satisfied/ Prosecution:	<u>UNFOUNDED</u>
Not Satisfied/ Courts	<u>UNFOUNDED</u>
Not Treated with Dignity/Respect:	<u>NOT JUSTIFIED</u>

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

In a groundbreaking advance to elevate the level of professionalism of South Carolina Victim Service Providers (VSPs), OVSEC was established by statute in 2008 (SC Code §16-3-1620(C)). Housed in the Office of Crime Victims' Ombudsman, OVSEC establishes certification and continuing education requirements for VSPs, and is authorized to promulgate regulations requiring VSPs to maintain their mandatory minimum certification requirements. Private, nonprofit and public agencies are mandated to ensure that all VSPs and Notifiers employed in their respective offices are certified through the Office of Victim Services Education and Certification.

OVSEC is authorized to:

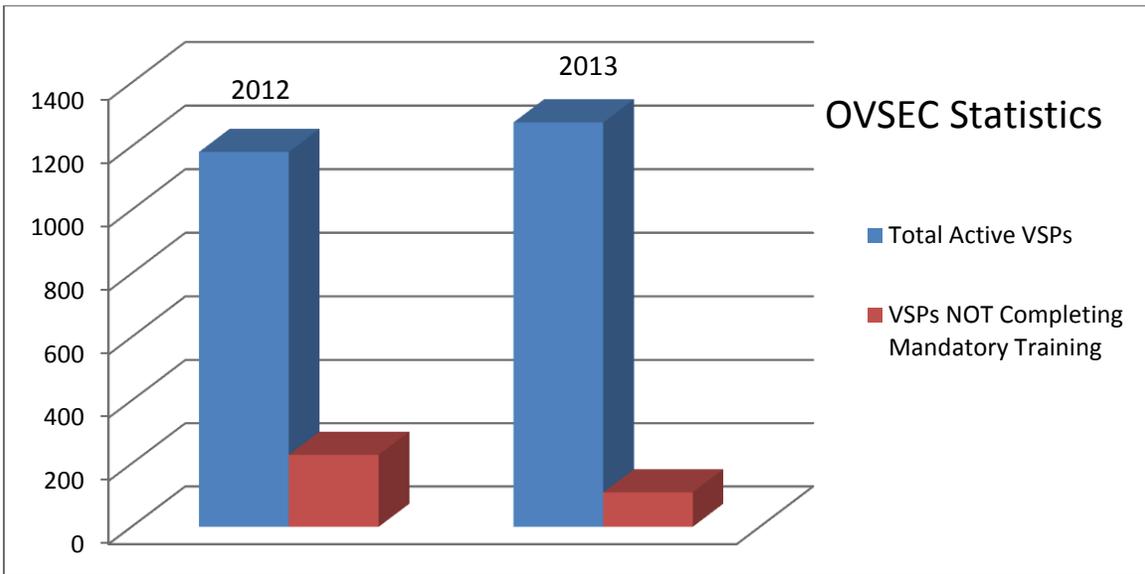
1. provide oversight of training, education, and certification of victim assistance programs;
2. with approval of the Victim Services Coordinating Council (VSCC), promulgate training standards and requirements;
3. approve training curricula for credit hours toward certification;
4. provide Victim Service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

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

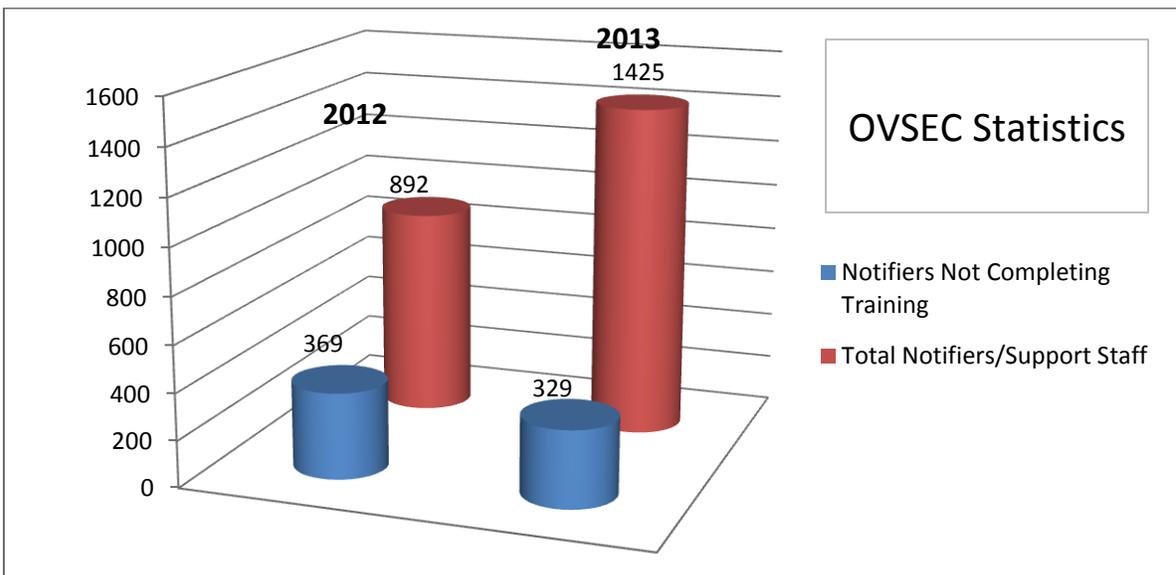
- (a) who is employed by a local government or state agency and whose job duties involve providing victim assistance as mandated by South Carolina law; or
- (b) whose job duties involve providing direct services to victims and who is employed by an organization that is incorporated in South Carolina, 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 Providers

In calendar year 2013, the number of active VSPs rose to 1,182 from 1,074 the previous year. The number of VSP's who did not complete the mandatory 12 hour training fell to 109 from 228 the previous year.



Notifiers/Support Staff are individuals who provide notification to crime victims but do not provide advocacy. Notifiers are employed in jails/detention centers and courts, and are mandated to receive a 2-hour training every year on the Victims’ Rights Constitutional Amendment and Victim/Witness Service Statutes. *(As of January 1, 2014, Notifiers/ Support Staff must complete the 2-hour training requirement every TWO years.)* In 2013, there were **1,425** total active Notifiers/Support Staff (up from 892 in 2012). **329** of them did not comply with training requirements and get their mandatory 2-hour training (down from **369** last year). The CVO and staff conducted 14 trainings this year to over 1,200 VSPs, Notifiers/Support Staff and other criminal justice professionals.



Training for VSPs and Notifiers/Support Staff:

Everyone providing services to crime victims, as defined in SC Code §16-3-1400, must complete annual training.

- New VSPs are required to complete the 15-hour Basic Certification requirements within one year from date of employment.
- All VSPs are required to obtain 12 hours of continuing education annually to maintain certification throughout their employment.
- Notifiers/ Support Staff must complete their 2-hour Victims' Rights training every other year.
- VSPs and Notifiers/Support Staff must complete their annual training by December 31st.
- Up to 12 additional hours can be carried over to the following year's certification requirement for VSPs once the current year's requirement has been completed.

Types of Trainings

Accredited Trainings are submitted in advance to OVSEC by the agency/organization sponsoring the training. Agencies are encouraged to develop their own trainings and submit them to OVSEC for approval. VSPs must sign OVSEC's official sign-out sheets at the end of the training event in order to receive credit for attending training. Approved trainings are listed on our website at <http://www.oep.sc.gov/ovsec/training.html>.

Non-Accredited Trainings are victim service related, but sponsoring organizations have not submitted them to OVSEC for Accreditation. Trainings may be conducted in other states or online, but must still contain content which may be approved for VSP credits by OVSEC. VSPs may apply for OVSEC credits for these trainings by submitting a Non-Accredited Certification Request and all required documentation (proof of attendance, agenda and training information) in order to receive credit up to 15 days after a training.

Basic VSP Training Requirements:

15-hour Basic Certification requirements consist of **The Core Courses of OVSEC Basic Training**

1. SC Victims' Rights/Compliance/Statutes - 3 hours

Any type of material relating to the rights of SC victims, compliance, or statutes.

Example: The Victims' Bill of Rights, Victim Service Statutes.

2. Compensation Fund/State Office of Victim Assistance (SOVA) - 1 hour

Any material that focuses on victim compensation or the State Office of Victim Services (SOVA).

Example: SOVA requirements, or instructions about how to complete a victim compensation application.

3. Ethics/Confidentiality - 2 hours

Any material that focuses on the ethics of victim advocacy and a victim's right to confidentiality.

Example: The Victim Impact Statement, or how to handle VSPs' notes.

4. Criminal Justice System/Court Procedures - 2 hours

Any material that focuses on the structure, procedures and/or processes of the criminal or juvenile justice system.

Example: Mandated duties to victims at each stage of the criminal justice process.

5. Case Management - 2 hours

Any material about case management.

Example: How your agency manages each case to effectively serve victims and ensure compliance with victims' rights.

6. Communication - 2 hours

Any material about how to effectively communicate with a crime victim.

7. Specialized Training - 3 hours

Any type of training that involves serving victims of crime or a special victim population.

Approved Trainings, Training Requirements and Accreditation Standards may be found on OVSEC's website at: <http://www.OEPP.SC.GOV/OVSEC>. Additionally, application forms are available online **(1)** to register as a Victim Service Provider; **(2)** to have a training you are conducting Accredited by OVSEC; **(3)** to request credit hours for Specialized Training; **(4)** to receive credit for a training you attended which was not previously accredited by OVSEC (called a "Non-Accredited Training.")

We, in the Office of the Crime Victims' Ombudsman and OVSEC, 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:

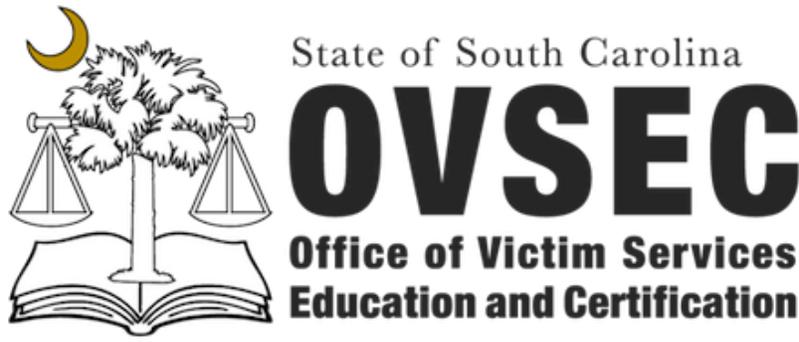
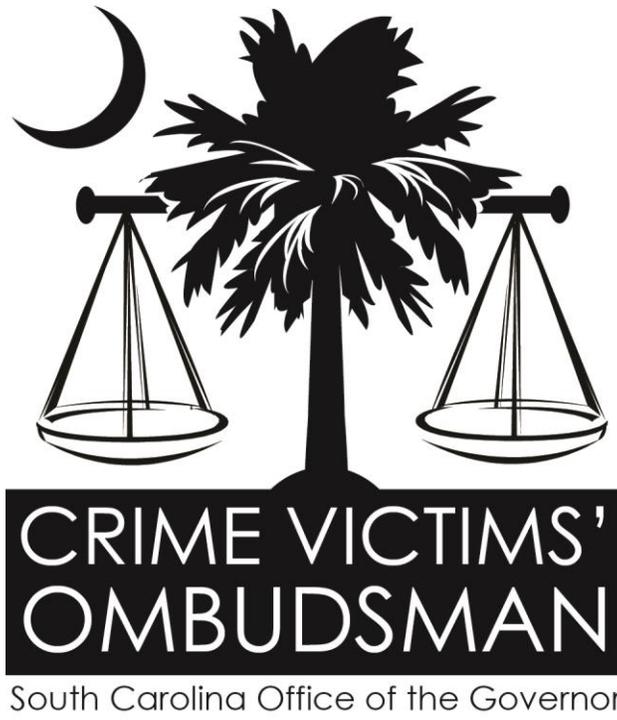
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Crime Victims' Ombudsman and OVSEC

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