

Department of Crime Victim Ombudsman

Annual Report FY 2021 – 2022



A Message from the Ombudsman

South Carolina's victim services system ranks among the top ten states in the Nation due to the strength of our Constitutional amendment, passed in 1998 providing legal rights for crime victims, and accompanying statutes, enacted in the '80s and '90s, that specify direct services to be provided by each agency within the criminal and juvenile justice system.

However, even though thirty-six states have now passed constitutional amendments to provide rights for victims, South Carolina is one of only thirteen states in the nation that has an entity like a Crime Victim Ombudsman, which seeks compliance with victims' rights.

For all formal cases that fit into our mandate, we send written complaints from victims to the head of the agency that allegedly violated their rights, along with a letter from us explaining that merely because we are inquiring about this issue in no way indicates that we have formed a belief that the agency violated the victim's legal rights.

The statutes allow us to request and receive case files, and also require all entities to cooperate with our requests.

We review whatever we need to make a determination about whether or not a victim's allegations are true. If we determine that an agency or individual did, in fact, violate a victim's rights, then we make a recommendation to the agency for improvement. The statute requires the agency to respond to us about what, *if any*, changes they made as a result of our recommendations.

But enforcement of victims' rights is tricky. Our constitution specifies that agencies cannot be held liable – can't be sued -- for failure to provide victims with their rights. So, in our state, a victim's only remedy for a violation is what is called a Writ of Mandamus.

A Writ asks a court (Circuit or Supreme) to compel a governmental official to properly fulfill their duties. In other words, the court orders the agency or individual to "do your job." Failure to comply with a Writ of Mandamus results in contempt of court.

Few Writs of Mandamus on behalf of victims have been filed; no Writ on behalf of a crime victim has ever been issued in South Carolina.

There are a few problems with this ONLY remedy of ours:

- Victims cannot do this on their own: they must hire an attorney.
- Attorneys are expensive, and most attorneys are not familiar with victims' rights.

Secondly, the issue must be clear: a Writ requires a violation of what is called a ministerial duty, which is *"one performed by a government official that does not require him to exercise his own judgment."*

It would be a clear road to file a Writ if, say, an agency refused to allow a victim to review a casefile after an investigation is complete, which is granted to victims by the constitution.

However, it would be difficult to obtain a Writ against an agency for violating a victim's right to be treated with dignity and respect. That would require the Court to determine a very nebulous issue; one that requires an exercise of judgement.

Since the laws providing legal rights for victims are in their infancy, this brand-new area of the law is, for the most part, untested.

One of our challenges is the absence of caselaw involving victims' rights. Victims have just begun to litigate these issues. We look forward to guidance from the court to interpret these laws and test the enforceability of victims' rights.

Some states impose penalties for violations of victims' rights, others appoint attorneys to represent victims to litigate these issues. We are exploring more useful enforcement mechanisms for victims to implement in the future.

Since our state lacks victims' rights caselaw, and defendants' legal rights have been litigated for over a hundred years, the rights of defendants **regularly** trump those of crime victims in the criminal justice process. Victims deserve better, and it is the Ombudsman's focus to change the culture of the criminal justice system to increase compliance with their rights.

Thank you for all you do to help crime victims!



Veronica Swain Kunz
South Carolina Crime Victim Ombudsman
VKunz@scag.gov



Table of Contents

Message from the Ombudsman	2
Crime Victim Ombudsman's (CVO) Mission	5
How We Accomplish Our Mission and Annual Statistics	6
Referral Cases and Examples.....	7
Types of Assist Cases and Examples	9
Criminal Justice System Assist Cases and Examples	11
Data: Types of Crimes in Assist Cases	13
Allegations in Formal Complaints	14
Formal Complaint Dispositions and Case Examples	17
Ombudsman's Statutory Authority	20
Victims' Bill of Rights	22
Crime Victim Ombudsman Staff	24



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

The CVO staff serves constituents in the most efficient manner possible and in a way which may prevent or reduce further victimization. Our goals are to:

- Efficiently resolve complaints made by crime victims.
- Promote compliance with victims' legal rights throughout the criminal/juvenile justice system and non-profit victim service agencies.
- Collaborate with the criminal justice/victim service community to ensure ethical performance and accountability.
- Enhance victim service programs' ability to collaborate within their communities to provide comprehensive, wraparound services to victims of crime.
- Educate the criminal and juvenile justice / victim services community and the public about crime victims' rights and services to increase their ability to comply with South Carolina law and provide supportive assistance to crime victims.

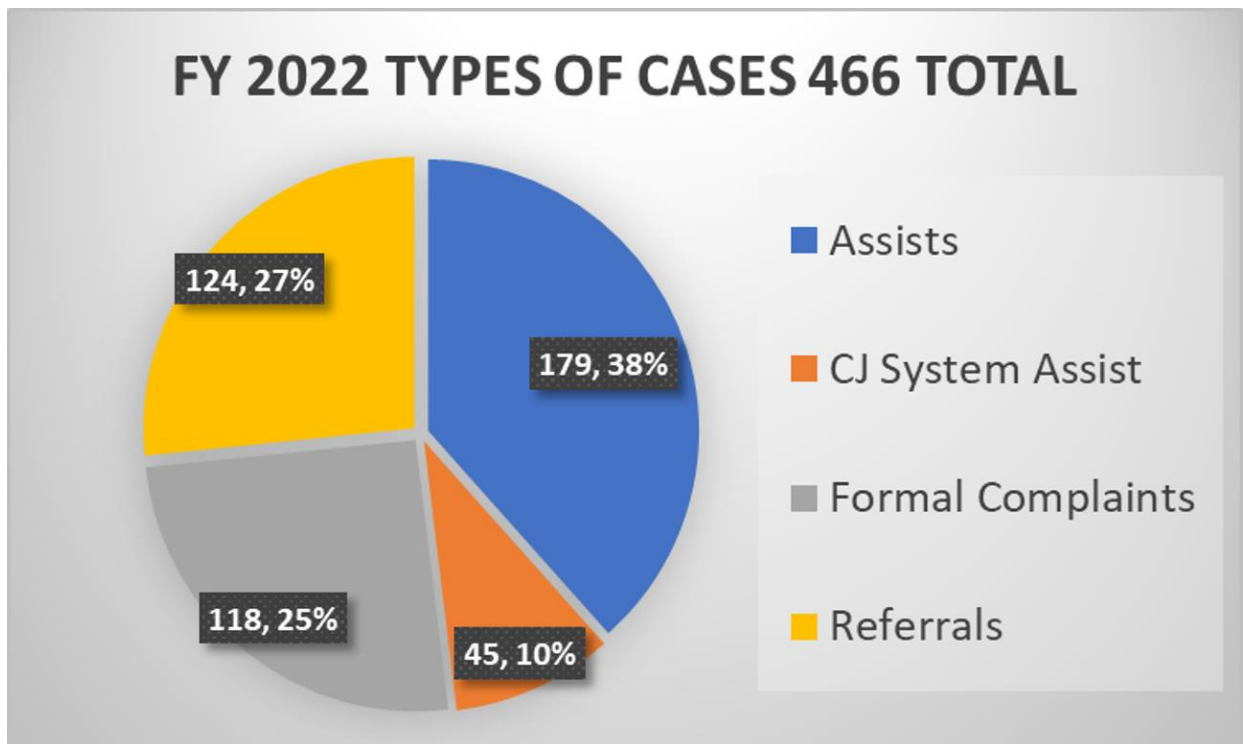


How We Accomplish Our Mission

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.

CVO DATA 2022



CVO PROVIDES REFERRALS

We serve as a hub of information in the State to help anyone find crime victim assistance. We educate 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 and in non-profit organizations to ensure their needs are rapidly and effectively met.

Case Examples: *REFERRALS*

- A caller's elderly father was being abused in a nursing home.
- The parent of a gunshot victim was upset that an offender was released on bond.
- A caller said they were arrested for being mentally ill. Is that legal?
- A caller's parent was in nursing home, but they wanted to bring him home. Is that allowed?
- A laptop was stolen at a hospital; security would not take a report.
- Despite reporting numerous harassment incidents involving an ex-spouse, a convicted domestic violence offender, a caller still felt unsafe.
- A caller believed their son was murdered and requested additional police agencies to investigate.
- A caller was concerned for a friend whose grandson was missing and complained that police would not allow a private search company to consult with them.

- A caller was upset that judges were releasing a repeat offender from jail because of COVID.
- A caller was concerned that their complaint to the county council was leaked to an opposing political party.
- An elderly person was assaulted by their teen, but no arrest was made. The eviction process was taking too long: the family was afraid and seeking a solution.
- A caller's child was killed in a drive-by shooting and wanted the custodial parent arrested for negligence.



Why Call CVO for Help?



Crime victims/survivors 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.

Advocates call us to help them solve unique problems, verify victim assistance procedures or to obtain resources, research and training.

Two Types of 'ASSIST' Cases:

179 Assists

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

45 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**

Case Examples: VICTIM ASSIST CASES

Handling any issue in the form of an "Assist" allows us to conduct an inquiry without the necessity of a formal written letter from the victim. Cases are carefully reviewed, and a decision may be made to handle a complaint in the form of an "Assist" if it is in the best interests of the victim, taking into account his or her safety and other considerations. These cases are more involved than referrals and can take anywhere from a few phone calls to months and a number of meetings to resolve.

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.

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

- A person who had been stabbed was upset that the offender did not receive jail time.
- A person tried to leave their abusive partner, but the DV shelter would not allow them to stay.
- A person being stalked and threatened by an ex-partner who violated a protective order believed that law enforcement was not prioritizing their case.
- A caller was afraid for the safety of their teens who were being abused and complained that police were not helping them.
- A caller was upset that assault charges were dismissed and was concerned for their child’s safety from their abusive partner.
- A caller stated that their Victim Advocate did not show up for court and was not satisfied with the outcome of the hearing.
- No incident report was made by law enforcement for a hit and run.
- A survivor of DV was concerned that an offender’s ankle monitor was removed and wanted guidance about how to deal with the situation.
- A victim was not notified in time to be present for a plea in a murder case.
- A survivor of an attempted murder alleged a police chief treated them and their parent unfairly.
- After years of sexual abuse, a survivor believed child sexual abuse material depicting them is on the internet and wanted advice about having it removed from all websites.

- A victim contacted law enforcement after their neighbor tried to steal a security camera and shot at their home, but believed police were not responding properly.
- A victim was notified after a plea hearing was held and was upset that they were not able to attend and be heard.
- A survivor wanted to know why a sexually violent predator's status changed on the registry.
- A caller alleged their property was sold without their knowledge and that their signature was forged.
- A caller tried to report exploitation of a vulnerable adult but were told that they read the law incorrectly.
- A survivor of domestic violence wanted to sign up for an Address Confidentiality Program, but South Carolina does not have one.
- The abuser of a survivor of domestic violence had temporary custody of their children. The survivor was seeking a lawyer and a police escort to court.
- A person came to our office concerned with the investigation into their drug-assisted sexual assault.

Case Examples: "CRIMINAL JUSTICE ASSISTS"

It is an honor to assist our colleagues in the criminal justice / victim service 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. The following are questions from professionals dealing with crime victims. If you need answers similar to those posed below, please call us!

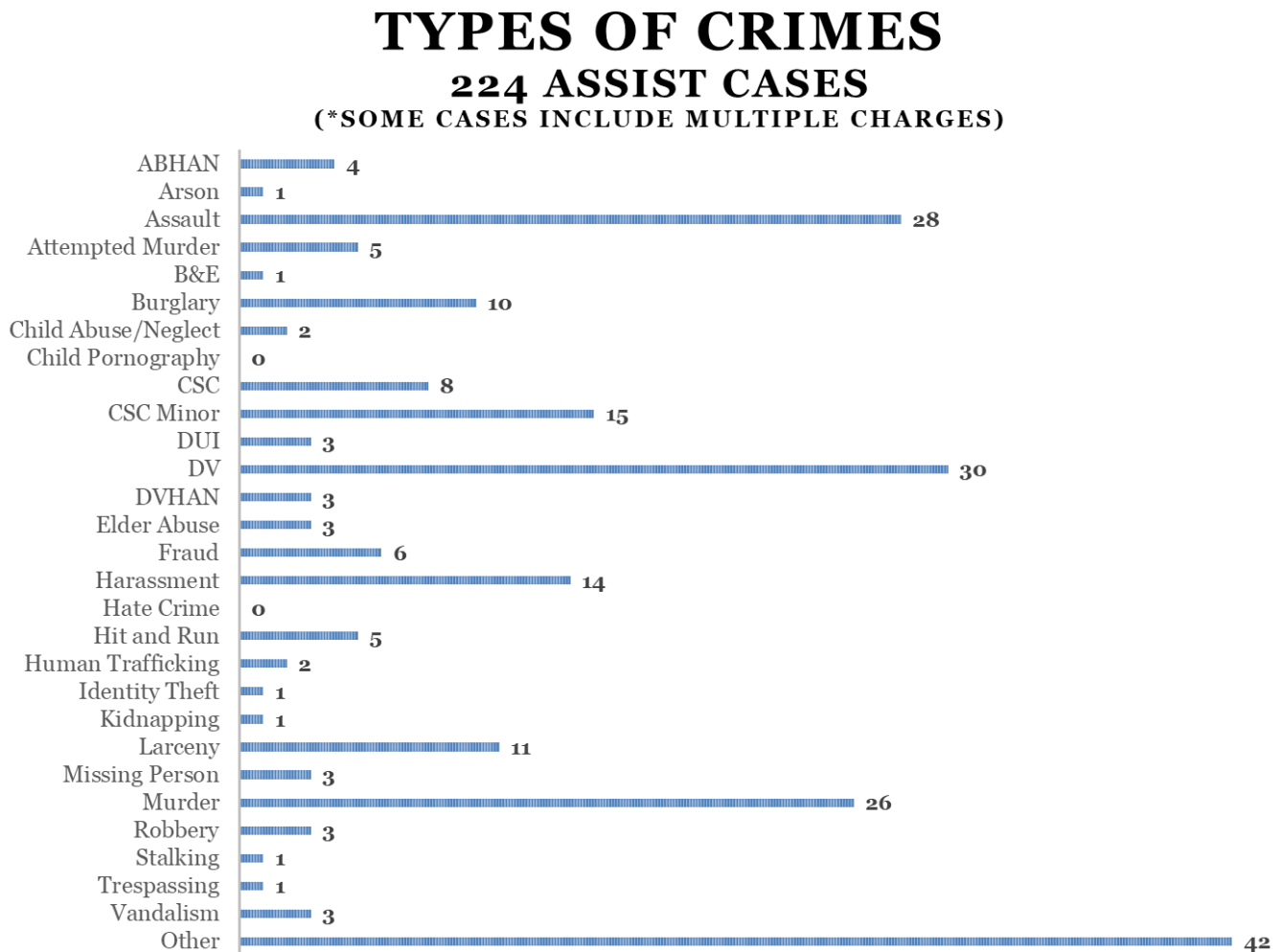
- A person was injured by a reckless driver. Is the injured person a victim?
- A Victim Service Provider (VSP) needed information about "signs of batterers" and information about attorneys who help victims with low income.

- Someone believed their sibling was taking advantage of their parent living in a long-term care facility. What can the VSP advise him?
- A VSP asked if they were required to turn over copies of an officer's body cam footage to a victim.
- A DSS caseworker was concerned that a juvenile human trafficking victim was being prosecuted.
- A VSP asked if the law requires a solicitor to give a victim the defendant's address.
- A VSP sought a referral for a friend whose child may have been murdered, but the police believe it was suicide.
- The parent of a murdered adult child with seven siblings only wanted one sibling to have case information. What should the VSP do?
- Can juveniles be ordered to pay restitution, or will the parents have to pay?
- A VSP asked whether DSS can order a survivor of DV to do certain things.
- A VSP asked who should notify victims about pretrial hearings?
- An officer wanted to know who should be notified when a child victim is in foster care.
- A VSP asked if there are any rules requiring the criminal justice system to translate court documents for families.
- A LEVA asked if law enforcement violated a victim's rights by ticketing, rather than arresting, an offender.
- A state agency official sought guidance about how to handle a serial killer who was profiting from their crime, which violates the 'Son of Sam' law.
- An officer wanted to know whether there was a requirement for them to notify the military police about a crime committed off base.
- A lawyer had questions about fighting a subpoena for victims' counseling records.



CVO DATA:

CVO tracks data on each case we handle. We utilize this data to track trends in crimes and types of complaints. We identify agencies and/or areas that have repeat violations of victims' rights to target our outreach and training initiatives.



“Other” indicates either a request for information from the criminal justice / victim service community about “all crimes,” or from someone who has a civil issue or who is not referring to a specific crime.

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

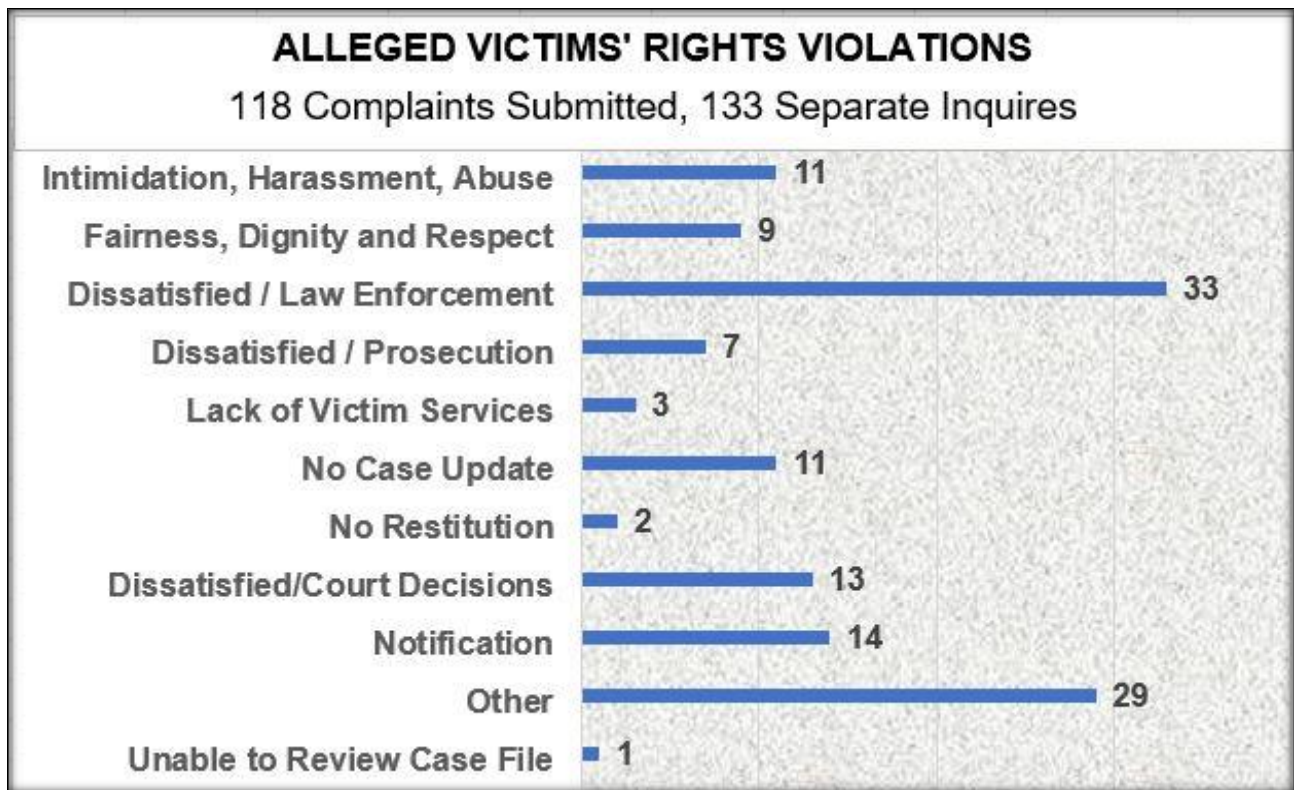
- All Detention Center Staff charged with notifying crime victims about offenders' releases / transfers / escapes

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, SC Department of Natural Resources (DNR)

Other

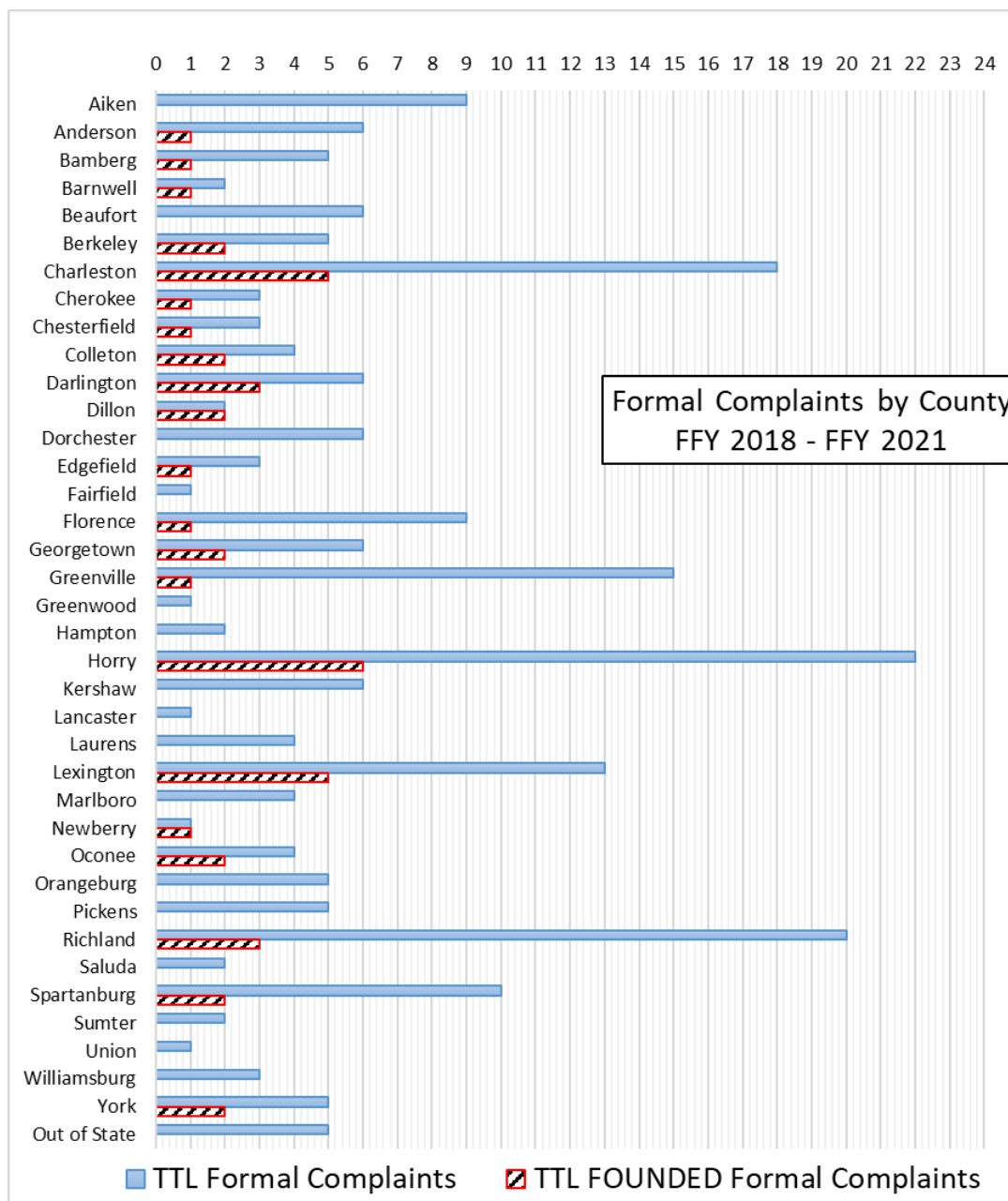
- All non-profit agencies that provide victim services; therapists, attorneys, etc.



Our online complaint process allows anyone to submit a Formal Complaint. Complaints that do not allege a person is involved with a criminal matter is designated as “Other.” In carrying out the inquiry, we request information and documents from the agencies to help us determine 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:

- 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 or involved a non-criminal issue.



The vast majority of complaints submitted to CVO 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 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.

Formal Case Examples

Formal Case Summary 1

Crime: Harassment

Complaint: Lack of LE, Dissatisfied with Court Decision

Subject of Complaint: Law Enforcement, Judge

Scenario: A victim filed a report of harassment, and a Restraining Order was issued. The Order was violated multiple times over several years. Law enforcement incorrectly believed they had to obtain a warrant to arrest for the violations, and the Judge (who issued the Order) refused to sign the warrants. Eventually the offender was charged again with harassment and violating the Restraining Order. The harassment charge was dismissed, and the violation charge was remanded to Magistrate's Court. The defendant was represented by counsel and the case was prosecuted by the arresting Officer. During the hearing, the defense attorney made a pretrial motion to dismiss the Order because it was "flawed on its face" since the Judge did not complete the paperwork properly, nor was it filed with the Court. The Motion to Dismiss was granted.

CVO Inquiry: CVO reviewed multiple police reports to create a timeline and reviewed the recording of the hearing to determine what occurred. During the hearing, the attorney raised numerous legal challenges, all of which were unanswered by the Officer. It was apparent that the Officer was unfamiliar with how to reply to the challenges and the case swiftly folded. The Judge retired from the bench shortly after this incident.

Relevant Laws:

S.C. Code §16-3-1800 Law enforcement officers shall arrest a defendant who is acting in violation of a restraining order after service and notice of the order is provided. An arrest warrant is not required.

S.C. Const. Art I, §24(A) To preserve and protect the victims' right to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:

- (1) be ... free from intimidation, harassment or abuse throughout the criminal and juvenile justice process ...
- (6) be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process

Conclusion: CVO determined that through a series of errors, both Law Enforcement and the Judge violated the victim's rights.

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

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

Recommendations and Results: CVO recommended that all officers receive training on protection orders and how to respond to reported violations. Had the issuing judge remained on the bench, CVO would have recommended that he receive training and suggest that the victim report him to the Office

of Disciplinary Counsel. CVO uses this case as an example when training police and judges about this important topic.

CVO also met with a professor from the University of South Carolina's Joseph P. Rice School of Law and staff of Court Administration to propose revisions to the Summary Court Bench Book, and to forward an updated "Guide to Restraining Orders" developed by USC School of Law to all judges in the state. Additionally, CVO forwarded the Guide to all LEVAs to share with officers in their agencies.

Formal Case Summary 2

Crime: Stalking

Complaint: No Notification

Subject of Complaint: State Agency

Scenario: A convicted stalker was called to court when he violated a Permanent Restraining Order. He had been ordered to wear an electronic monitoring device but had removed it. He had violated his victim's exclusion zones at least eight times over several months, but the victim had not been notified of the violations, nor about the removal of the monitoring device.

CVO Inquiry: CVO discovered that the Agency had no specific written policy directing employees to notify victims when offenders remove their electronic monitoring devices.

Relevant Laws:

S.C. Const. Art I, §24(A) To preserve and protect the victims' right to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:

(2) be reasonably informed when the accused or convicted person is arrested, released from custody, or has escaped;

Conclusion: CVO determined that the Agency violated the victim's right to be notified.

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

Recommendations and Results: The Agency swiftly recognized and eliminated the gap in their policies and practices and provided training to all staff members.

Formal Case Summary 3

Crime: Assault

Complaint: A caller reported that they were not notified that an offender had been allowed to remove their electronic monitoring device.

Subject of Complaint: Solicitor's Office

CVO Inquiry: The victim was notified, present and heard at a bond reconsideration hearing. A judge denied the request. The victim contacted our office when they saw a social media post made by the offender showing they were out of jail. Initially, the victim believed the Solicitor's Office did not notify them that they consented to allow the defendant to remove the electronic monitoring device. CVO determined that the defendant pled guilty to a lesser charge in "Transfer Court" a mere two days after the bond reconsideration hearing. The victim was unaware that their offender had pled guilty. CVO was unsure if that was because the Solicitor did not fully explain their plans to the victim, or the victim simply did not understand what was being said. Upon further discussion, the Solicitor's Office explained that no hearings were being held in Transfer Court during COVID, and that the guilty pleas were being handled with *affidavits alone*, citing Sup. Ct. Order 2020-05-07-01. Victims were being told that they were not allowed to participate in the process since there would be no sentencing hearing. However, CVO noted that the Order stated: *"If applicable, the prosecutor or prosecuting officer must comply with the Victims' Bill of Rights under Article I, Section 24 of the South Carolina Constitution."* Additionally, CVO determined the Assistant Solicitor was unaware that victims had a constitutional right to be present and address the court at all hearings regarding post-arrest release decisions. CVO consulted with both Court Administration and a Chief Magistrate regarding victims in Transfer Court, and both agreed that victims should be notified of the proceedings and given the opportunity to speak.

Relevant Laws:

S.C. Const. Art I, §24 (A) [victims have the right to]

- (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;

Conclusion: CVO determined that the Solicitor's Office violated the victim's right to be notified, present and heard at the plea hearing.

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

Recommendations and Results: CVO advised the Solicitor's Office that we appreciate the use of Transfer Court to handle non-victim cases, or cases where a victim waives their right to address the court. However, more often than not, the day an offender pleads guilty is a highly anticipated and important day in victims' lives; one that helps them recover and place the violent act in the past. During "normal" times, Transfer Court has a number of walk-in defendants/pleas and does not necessarily follow a docket. CVO recommended that Solicitors who handle cases involving victims must notify the Judge that victims are present and wish to provide their victim impact statement. In cases involving victims who do not wish to be present, CVO recommended that Solicitors secure a written waiver of their right to address the court.

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

ARTICLE I, SECTION 24

Passed January 22, 1998

SECTION 1. SECTION 24 (A). 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.

Crime Victim Ombudsman Staff

Veronica Swain Kunz Deputy Director
VKunz@SCAG.gov

Christina Toler Program Coordinator
CToler@SCAG.gov

Lena Granat Program Coordinator
SCoe@SCAG.gov

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 any time at **803-734-0357**.

25 books printed at \$1.12 each, total cost of \$28.00.

**“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

Crime Victim Ombudsman
803.734.0357
www.CVO.SCAG.GOV