

Governor's Office of the Crime Victims' Ombudsman
Annual Report FY 2014-2015



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.

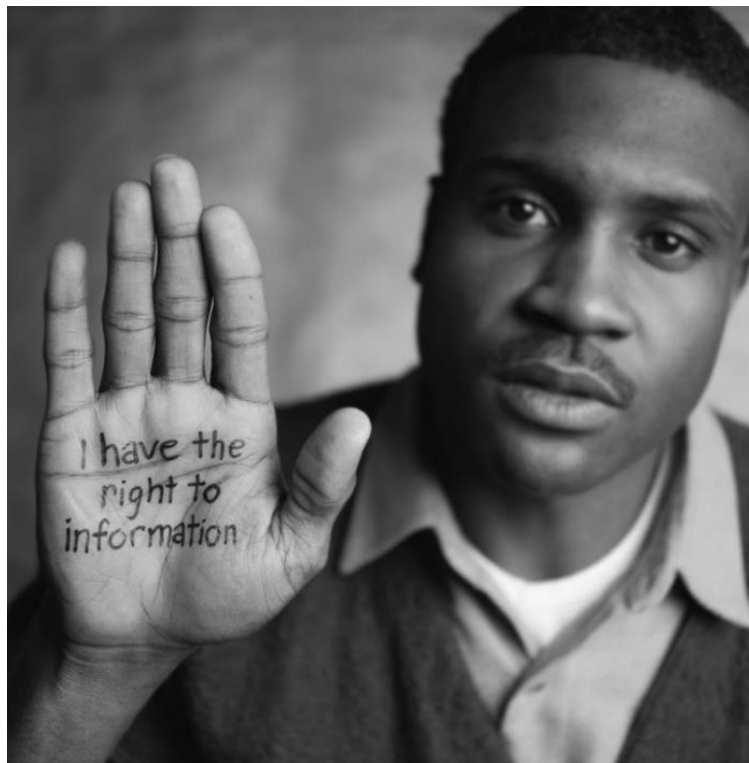
(C) For purposes of this section:

(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.



Office of the Crime Victims Ombudsman and The Office of Victim Services Education & Certification

Mission

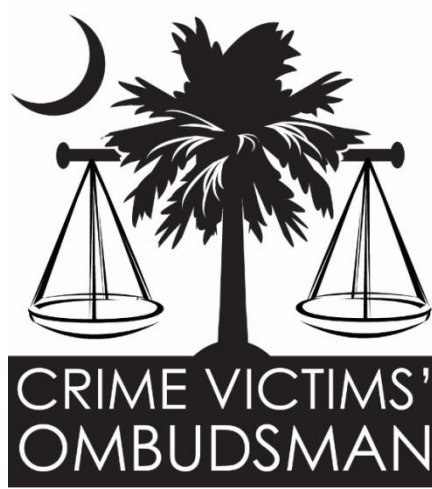


The mission of the Office of the Crime Victims' Ombudsman (CVO) is to ensure that victims of crime are served justly, equitably and fairly by the South Carolina criminal justice system and its victim service organizations. Additionally, the Office of the Crime Victims' Ombudsman, through its Office of Victim Services Education and Certification (OVSEC) program, provides oversight of training, education and certification for all victim service providers 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 the OVSEC program to serve as the centralized, efficient and comprehensive source of education and training for victim service providers in South Carolina.

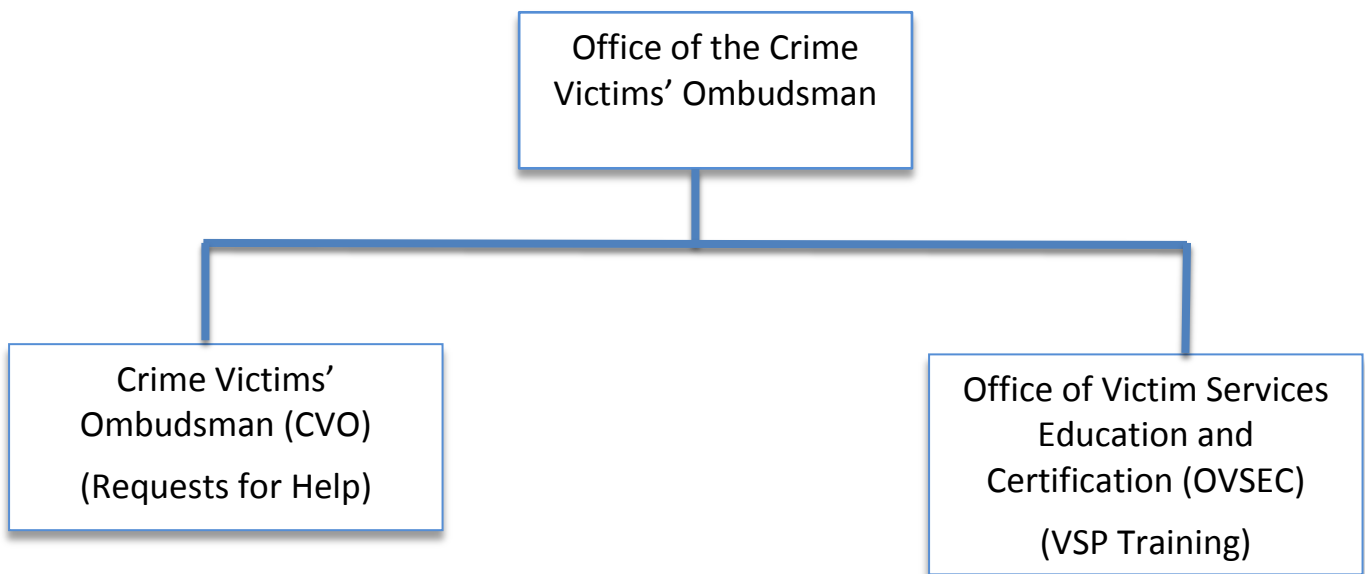


Crime Victims' Ombudsman Overview

Established in 1996 (SC Code §16-3-1620-1680) the Office of the Crime Victims' Ombudsman is comprised of two divisions with distinct responsibilities:

(1) The Crime Victims' Ombudsman (CVO) refers crime victims to services, serves as a liaison between victims and the criminal justice community, and investigates and responds to allegations of victims' rights violations.

(2) The Office of Victim Services Education & Certification (OVSEC) registers all Victim Service Providers (VSPs) working in criminal justice system-based and social service agencies across the state, and certifies that they receive mandated training and annual continuing education. OVSEC also reviews and approves all trainings conducted for VSP certification purposes.



At A Glance...

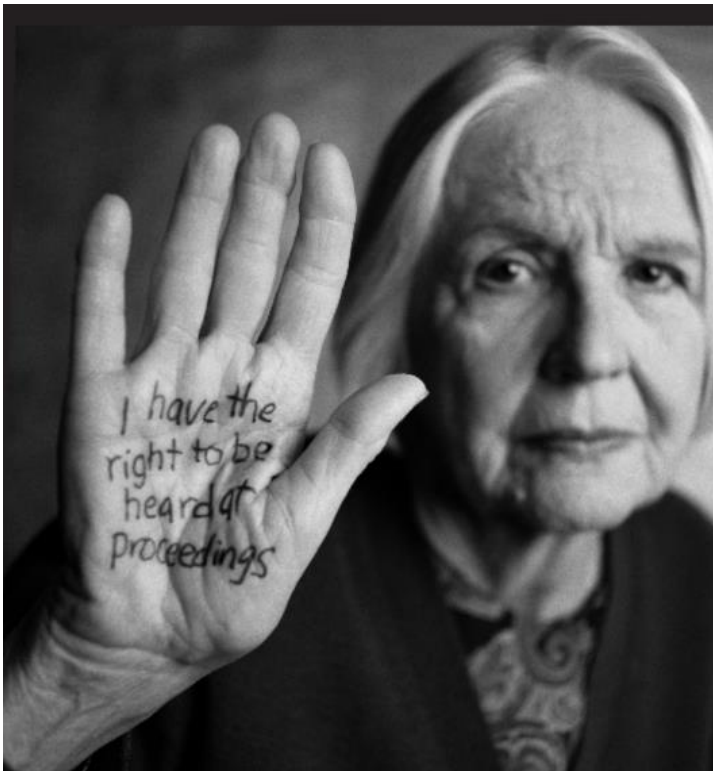
- 493 Referrals/Assists processed by CVO staff
- 64 Formal Cases investigated
- 508 new VSPs and Notifiers registered with OVSEC in 2014
- 3,363 total VSPs and Notifiers registered with OVSEC in 2014
- 435 Training events were reviewed and Accredited by OVSEC
- Over 1,400 Criminal Justice / Victim Service professionals trained by the CVO
- 97 training events advertised on OVSEC's website

General Overview

How Does CVO Help Constituents?

Constituents who are victims of crime, members of the criminal/juvenile justice or victim service community, or other interested citizens contact the Office of The Crime Victims' Ombudsman (CVO) and receive services in one or more of the following three ways:

1. **Referral(s)** to appropriate local, state or federal criminal justice/victim service agencies. Constituents contact the Office of the Crime Victims' Ombudsman via phone, e-mail, letter or in person seeking assistance. CVO determines appropriate referral(s) and provides the constituent with contact information and explains the resource.
2. **Liaison Assistance** (also referred to as an "Assist") with criminal/juvenile justice agencies, or victim assistance programs. Handling any issue in the form of an "Assist" allows the CVO to conduct an inquiry without the necessity of a formal written letter from the victim. A crime victim lodges a complaint against one or more criminal justice agencies. CVO staff contacts the agency(s) to discuss the allegations. The nature and complexity of the complaint usually necessitates the request and receipt of relevant documents, along with numerous phone and email conversations between CVO and criminal justice agencies. All transactions/communications are documented, and the eventual resolution and recommendations are communicated to all parties involved. (Appropriate supportive referrals are offered by CVO staff to the victim.) Often, a criminal justice/victim service agency will request training on a victim service-related topic, and CVO provides training to increase their ability to effectively serve victims.
3. **Formal Complaint** addressing the allegations lodged against a criminal//juvenile justice agencies, or victim assistance programs. A crime victim lodges a complaint against one or more agencies through a written, formal letter specifying the allegations(s) and the agency(s) involved. CVO forwards a copy of the Complaint to the subject of the complaint. A courtesy period of two weeks is given to the subject of the complaint to respond to the CVO via phone or in writing. CVO staff addresses the allegations outlined in the victims' letter. The nature and the complexity of the complaint generally requires the request and receipt of relevant documents, and numerous phone call and email conversations between CVO and criminal justice agencies. All transactions are documented, and the eventual resolution and recommendations are communicated to all parties involved. Some cases require CVO to coordinate and attend a meeting between the victim and the agency to discuss findings. This can be extremely beneficial for a victim and their family members. Appropriate referrals to supportive services are also offered to the victim by CVO staff. The primary difference between an Assist and a Formal Complaint is the receipt of the victims' complaint in the form of a written letter. Acquiring information from the victim, the subject of the complainant and any additional parties involved requires the same amount of time and effort on the part of the CVO staff.



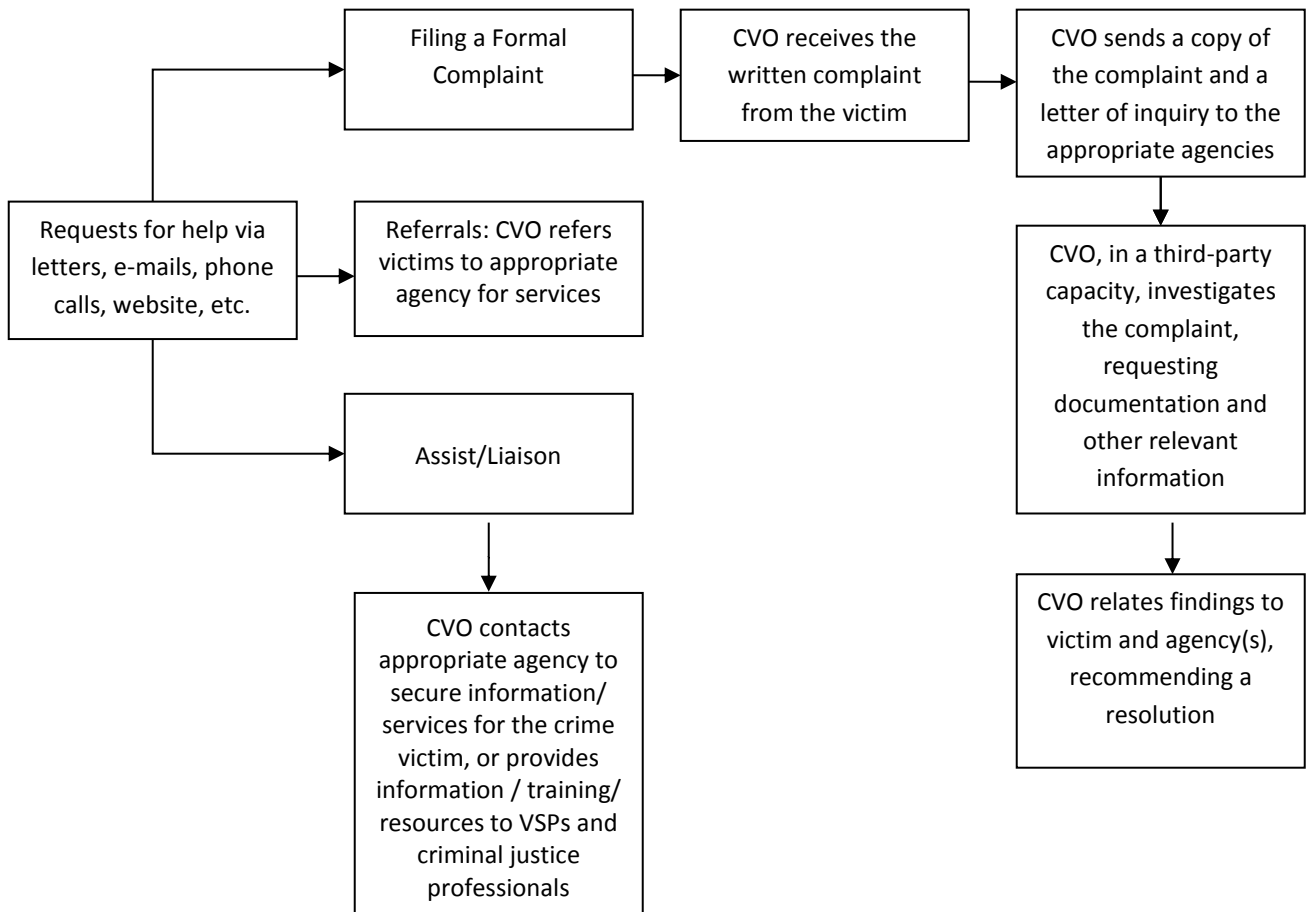
We are problem solvers. We respond to requests from our stakeholders in the victim service community to help them bridge gaps in services by providing resources, training, technical assistance and direct liaison assistance. We also investigate allegations of victims' rights violations from crime victims and, if founded, work with our constituents to resolve the issue and enhance their ability to effectively serve victims.

OUR PHILOSOPHY:

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

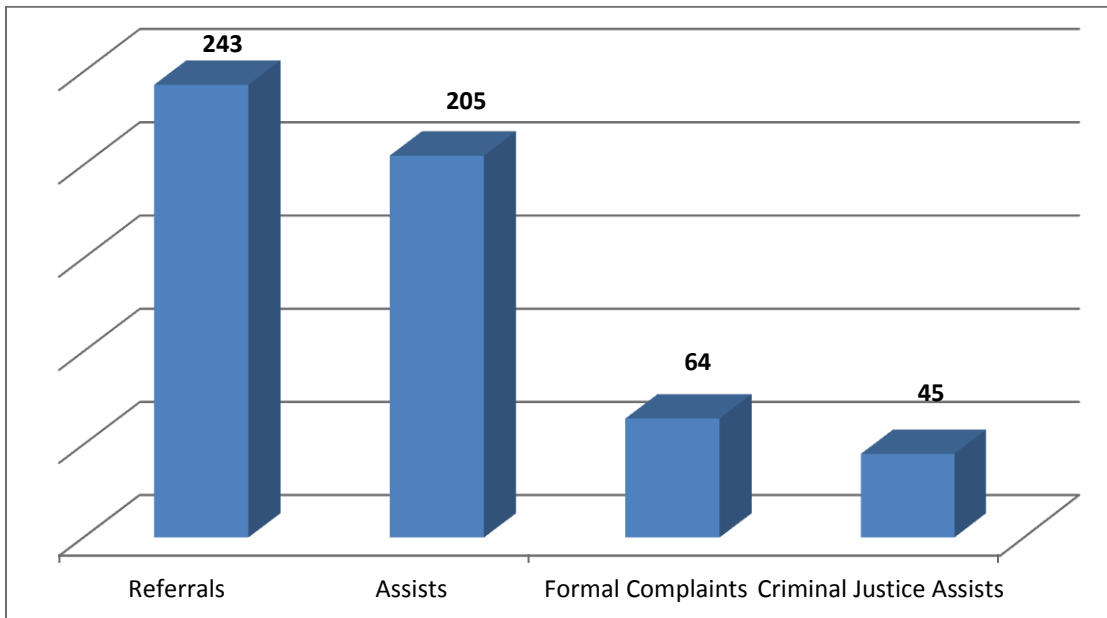
- Efficiently resolve complaints made by crime victims.
- Collaborate with the criminal justice/victim service community to ensure ethical performance and accountability.
- Enhance victim service programs' ability to collaborate within their communities to provide comprehensive, wraparound services to victims of crime.
- Provide oversight of certification and training to VSPs to ensure compliance with South Carolina law.
- Educate the criminal / juvenile justice/ victim service 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.

Crime Victims' Ombudsman Requests / Complaints Flowchart



“Thank you for helping me. Regardless of the outcome, this time I was not pushed aside or left with a dead-end road of no solution or follow-up. Victims deserve emotional support, education and follow through.”

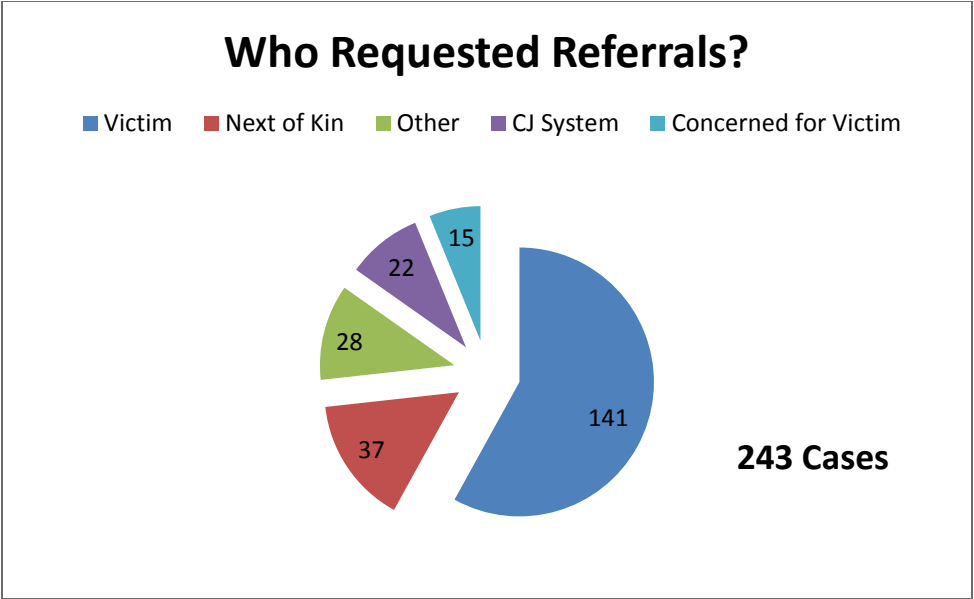
Fiscal Year 2014-2015 Statistics



Much of the work of the CVO involves educating crime victims about who is available within their own communities to assist them, and how they can help. We connect crime victims to the expert Victim Service Providers working in law enforcement agencies, Solicitor's Offices, courts, detention centers/jails, State Agencies and in non-profit organizations, to ensure their needs are rapidly and effectively met.

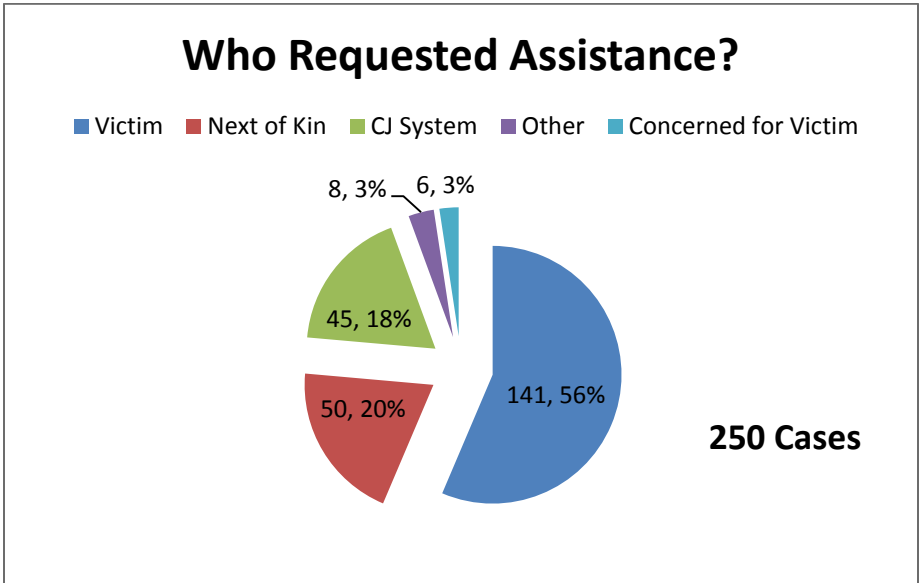
When victims call with concerns, we serve as a neutral, third-party liaison. We clarify whether or not they have an issue we can immediately resolve for them through information and education. For example, a concerned family member of a domestic violence victim might call to insist that an offender be kept in jail and not released on bond. They don't understand why the batterer has been released into the community, and why the victim refuses to leave him. We explain the bail/bond process to them and direct them to resources available at their local domestic violence center and on the internet so they can better understand and help their loved one.

The criminal justice community also calls with requests for research, training or technical assistance to help them improve their services to victims in their communities.

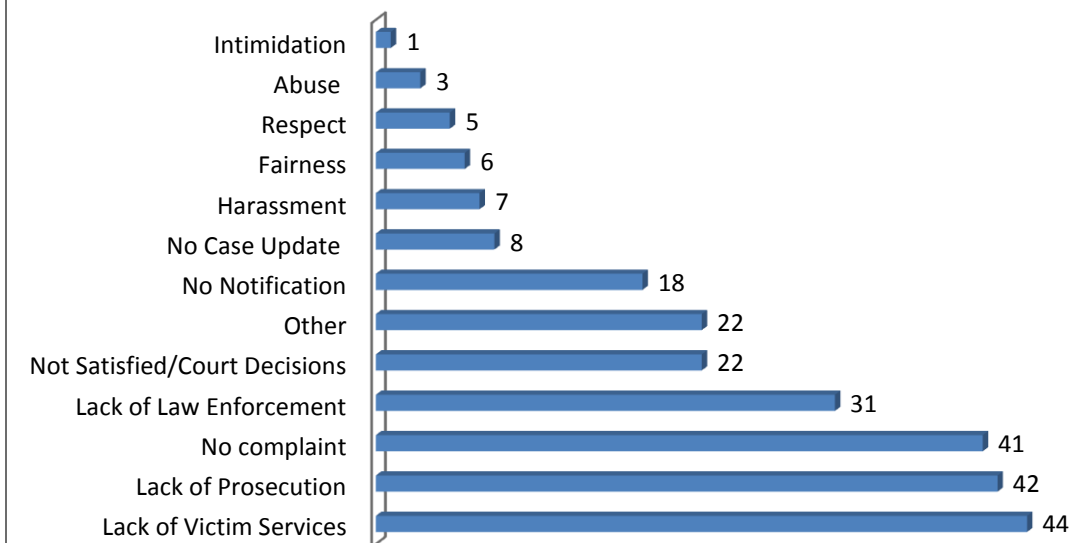


“Assists” Provided by the Crime Victims’ Ombudsman

Cases are carefully reviewed on an individual basis and a determination 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. Therefore, as communication and relationships have strengthened between CVO staff and criminal justice agencies, more cases are being handled as “Assists,” rather than Formal Complaints. Positive feedback from both parties suggests the use of this approach is effective. It is our hope that this continued approach may reduce incidences of victims’ rights violations in South Carolina and improve services provided by the criminal justice system to victims.



Assistance Cases: Type of Complaint



“**No Complaint**” includes requests for information, resources or technical assistance from the victim services or criminal / juvenile justice community. “**Other**” are requests for help from people who, after investigation, are deemed criminal offenders, or whose issues do not rise to the level of a crime (example: child custody issues, people complaining about being “victimized” by creditors, or teachers at school). All Assist cases involve CVO fully investigating to verify that all assistance available to the individual has been provided.

CASE EXAMPLES: CVO ASSISTS

Victim Denied the Right to be Heard at Bond Hearings:

Victim complained she was not allowed to speak at a bond hearing. County officials stated the room where bond hearings were held was not designed to allow victims to be present and heard. After CVO viewed bond court proceedings, we met with the Judge who expressed his concern about information he received from Court Administration admonishing judges from participating in *ex parte* communication with victims. CVO arranged a conversation with the Judge and Court Administration to clarify this issue. Court Administration verified for the judge that victims must be allowed to speak at bond hearings. The Court made exceptional accommodations immediately for victims to be heard by installing two-way communication devices and video cameras in the bond hearing room to allow victims to view proceedings and to be heard by the presiding judge.

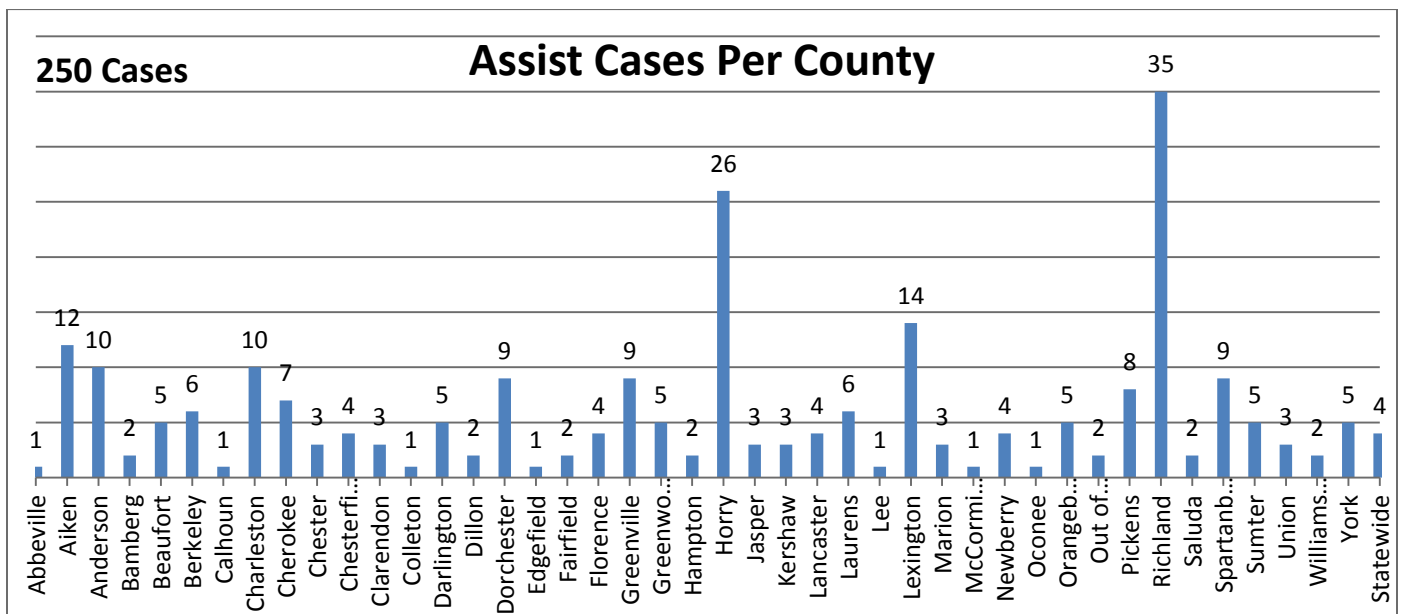
Victim Treated with Disrespect:

CVO received a call from a victim experiencing an emergency in court and needed help. We referred her to her VSP, but the victim said she could not get in touch with her because her voicemail was full. CVO offered to immediately contact VSP for her, but the victim said, “She seems like she’s mad at me, so I don’t know if I should bother her.” We told her she was not a bother, and called the VSP’s number. The voicemail was full.

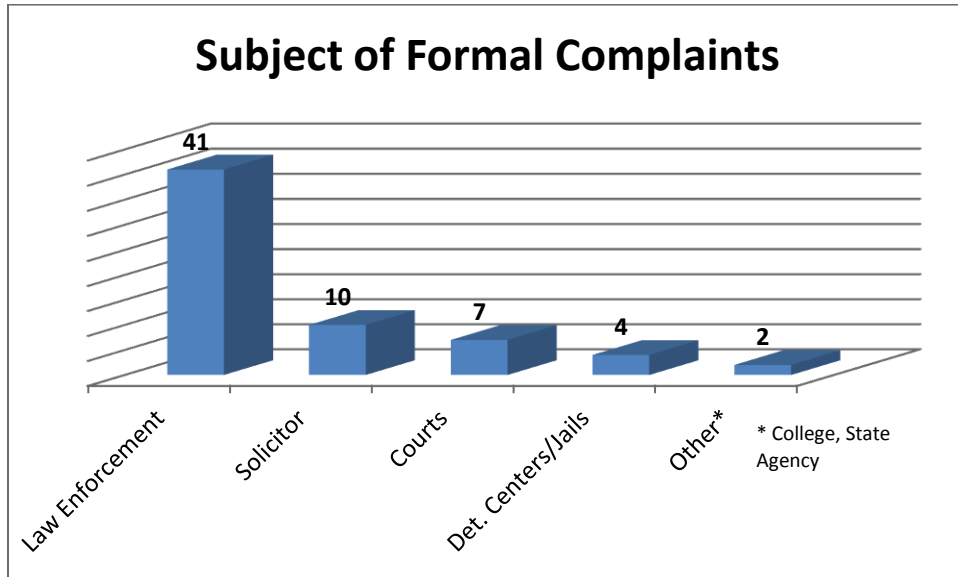
CVO called the VSP on her cell phone. It was immediately apparent that she was upset. She blamed the victim for not getting in touch with her. When we told her that her voice mail was full, she denied it. We were concerned that she would continue this behavior with the victim, and in an unusual step, we immediately contacted her supervisor with our concerns. Another VSP was assigned and met the victim in court. CVO followed up with a letter to her chief/sheriff. We promptly received an apology letter from him saying he had verified the allegations, and confirmed that the VSP had been reprimanded and would receive training.

Victim Complains about Solicitor’s Decision:

Caller was the victim of a hit and run crash that left her vehicle damaged, and was upset that the Solicitor's Office offered the offender Pre-Trial Intervention (PTI). She believed that the offender should pay her insurance deductible to fix her car immediately, and she felt that the Solicitor’s Office was “for the defendant instead of the victim.” CVO contacted the Solicitor who confirmed that the offender agreed to pay restitution, and he would request she be reimbursed for all financial losses at the disposition of the case, which should be heard next year. He advised her to pay the deductible until she could recoup her losses at disposition. CVO advised her to follow the Solicitor’s suggestion, explained PTI and reiterated the reasons this offender was offered PTI. We verified that criminal cases take quite a while to resolve and that the Solicitor was, in our opinion, representing her interests fairly. Victim said she was not going to pay the deductible and she was upset with the laws of South Carolina.



Formal Complaints

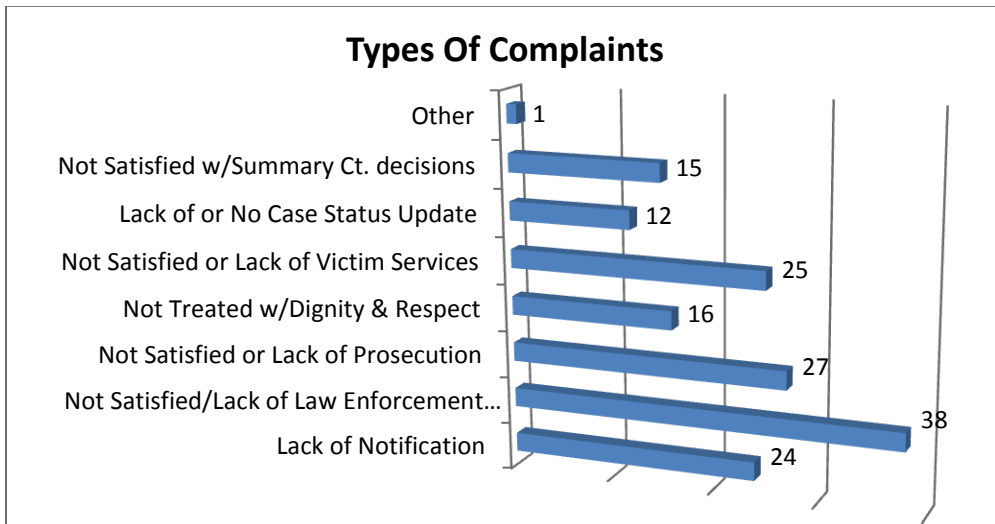


A crime victim may file a Formal Complaint* against any entity, individual and/or victim service programs in the criminal and/or juvenile justice system, or non-profit victim/survivor service group:

- 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
- Courts:** All Circuit, Magistrate and Municipal Judges, their clerks and staff
- Detention Centers/Jails:** All Detention Center staff charged with notifying crime victims about offenders' releases /transfers/escapes
- 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) and Department of Juvenile Justice (DJJ)
- Other:** All non-profit agencies that provide victim services; therapists, attorneys, etc.

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

**In the larger municipalities in SC, city prosecutors may handle criminal cases in summary court.

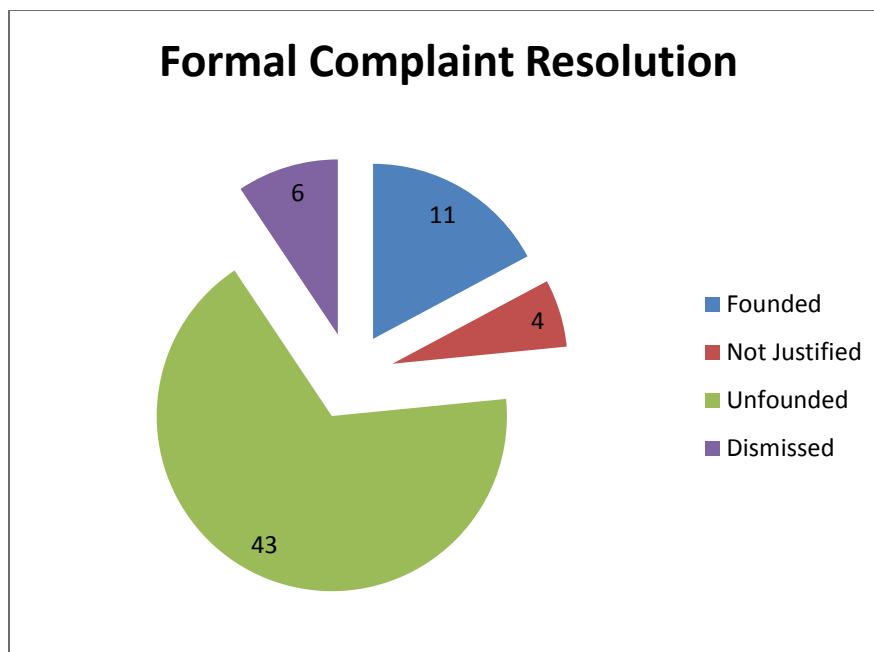


The number of **complaints** per fiscal year is always more than the number of **Formal Cases opened** by the CVO because a victim(s) may have several complaints for the same criminal event, yet only one case is opened by the CVO. For example, a victim may have a complaint about not having been notified 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.

Of these Formal Complaints, **43** were **Unfounded**, **4** were **Not Justified**, **11** were **Founded** and **4** were **Dismissed**. Formal Complaints can take up to three months to investigate, necessitating an average of 40 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 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

Case Summary #1

Crime: Homicide

Complaint: The mother of a homicide victim was not notified that the suspect was released from jail. (Victims’ Right at Issue: Right to be Notified)

Subject(s) of Complaint: Solicitor, Detention Center

Scenario: A young woman was killed with an axe. A suspect was arrested and charged with first degree murder. The victim’s family was notified, present and heard at two bond hearings. The first request for bond was denied by a Circuit Court Judge. A few months later, the Judge heard the defense’s motion to allow the suspect to be released on bond. He took the matter “into consideration,” telling all present that he would notify the Solicitor when his decision was made. The mother of the homicide victim discovered her daughter’s alleged killer was out of jail a few months later when she saw him sitting in his mother’s front yard near her own home.

A Formal inquiry was conducted with the assistance of the Detention Center and the Solicitor.

The Solicitor contacted CVO immediately to state that, through a series of unfortunate events, the Solicitor’s staff was unable to retrieve the letter from the Judge which disclosed that he consented to the offender’s release in time to notify the victim. The Solicitor had already personally contacted the family to apologize for this oversight and to assure them they would improve future notification and services.

The Detention Center said that they were unable to notify the victim because their automated victim notification system malfunctioned.

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:**

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

SC Code §16-3-1525 (N)(1): Notification of a victim pursuant to the provisions of this section may be by electronic or other automated communication or recording. However, after **three unsuccessful attempts** to reach the victim in cases involving criminal domestic violence, criminal sexual conduct, and stalking and harassment, and those cases when physical injury has occurred as a result of a physical or sexual assault and in cases where a pattern of conduct exists by the offender or suspected offender that would cause a reasonable person to believe he may be at risk of physical assault the appropriate agency or diversion program shall attempt to **make personal contact with the victim**, or the victim's guardian, upon the judicial or administrative release or the escape of the offender.

SC Code §16-3-1545(G): The prosecuting agency, upon request, must make a reasonable attempt to keep each victim informed of the status and progress of a case, with the exception of preliminary hearings, from the time a juvenile case is referred to, or a general sessions charge is received by, the prosecuting agency for disposition of the case in general sessions or family court.

Conclusion

The Solicitor failed to keep the victim informed of the status of the case at a crucial stage in the process. The Detention Center violated the victim’s right to be notified of the offender’s release. CVO partnered with the SC Department of Corrections to conduct training at the Detention Center. CVO trained all Detention Center Notifiers on the legal rights of crime victims, and their statutory duties to victims. The SC Department of Corrections thoroughly trained Detention Center personnel about the SAVIN system, and worked closely with the Detention Center to cure any issues they had with their automated victim notification system.

Disposition:

Lack of Notification/ Solicitor:	<u>FOUNDED</u>
Lack of Notification/ Detention Center:	<u>FOUNDED</u>

Case Summary # 2

Crime: Criminal Sexual Assault

Complaint: Victim of sexual assault complained that she was treated disrespectfully by law enforcement, and that they refused to conduct a thorough investigation of the crime against her. (Victim’s Rights at Issue: Fairness, Dignity and Respect; and a Reasonable Disposition / Prompt and Final Conclusion of the Case)

Subject(s) of Complaint: Law Enforcement

Scenario: A female soldier went on vacation with fellow soldiers. They all stayed in the same hotel room, and had been drinking heavily. One man present was a stranger to the victim. In the middle of the night, the victim awoke and the stranger was sexually assaulting her. Her friend also woke up, saw what happened, and chased the offender out of the room. The victim and witnesses called police and two officers responded. The officers asked the victim “if she said ‘no’.” The victim said she was so heavily intoxicated that she was unconscious, so she did not consent. The victim claimed the officers told her that if she didn't say no, then the assault was not a crime. Since she was so heavily intoxicated, the officers told her that “South Carolina doesn't have laws to handle situations like this.” They told her that this incident would not be considered a crime; it would be more like military misconduct. They inferred that she would likely be in trouble with the military for making this complaint, and recommended she see a therapist.

A Formal inquiry was conducted with the assistance of Law Enforcement.

CVO called the Sheriff to discuss this case. The Sheriff reviewed the incident report and agreed that it appeared that the officers failed to conduct a thorough investigation. He arranged for an Internal Inquiry to be conducted into the actions of the officers. The Sheriff's Office of Professional Standards determined that the officers “acted in improper and unacceptable manner” and formally reprimanded them. The Sheriff agreed to increase all officers' training with regard to responding to sexual assaults. The victim received an apology from the Sheriff, and a thorough investigation was conducted into this crime.

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:**

- (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;
- (11) a reasonable disposition and prompt and final conclusion of the case;

SC Code §16-3-654. Criminal sexual conduct in the third degree.

- (1) A person is guilty of criminal sexual conduct in the third degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:
 - (a) The actor uses force or coercion to accomplish the sexual battery in the absence of aggravating circumstances.
 - (b) **The actor knows or has reason to know that the victim is** mentally defective, **mentally incapacitated, or physically helpless** and aggravated force or aggravated coercion was not used to accomplish sexual battery.

SC Code §16-3-651. Criminal sexual conduct; definitions.

(f) **“Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct whether this condition is produced by illness, defect, the influence of a substance or from some other cause.**

(g) **“Physically helpless” means that a person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.**

Conclusion

Law enforcement violated this victim’s Constitutional rights by not treating her with dignity and respect by inferring she would be in trouble with the military by reporting this crime, and that she should “see a therapist.” By refusing to conduct even an initial investigation into the victim’s allegations, CVO also concludes that the victim’s right to a reasonable disposition was violated by the responding officers. However, CVO and the victim were pleased by the prompt response of the Sheriff to try to rectify the situation: admonish the officers involved, conduct a thorough investigation, and pledge to increase training so future incidents do not occur.

DISPOSITION:

Lack of Law Enforcement: **FOUNDED**

Dignity and Respect: **FOUNDED**

Case Summary # 3

Crime: Petit Larceny, Receiving Stolen Property

Complaint: One victim was not notified of offender’s arrest. Victims were not notified, present and heard at bond hearing. Victims were not notified of offender’s release from jail.

Subject(s) of Complaint: Law Enforcement, Courts, Detention Center

Scenario: This case involves three families:

- 1) A one-year-old baby was killed in an accident last year. Family members reported to law enforcement that someone had been stealing items from the baby’s grave. The family placed a camera near the site and got photos of the suspect, and received additional leads from an anonymous tip via Facebook. Law enforcement notified them that the suspect was arrested for 3 counts of petit larceny and receiving stolen property. However, the Detention Center failed to notify the victims of the suspect’s bond hearing or release.
- 2) A second family’s father’s grave was been robbed three times since he passed away eight months prior. Through social media, the families connected and met at the cemetery. There, they saw some of their stolen items placed on the grave of the suspect’s husband. Victims called law enforcement and recovered some of the stolen items from that gravesite. Victims were notified of the offender’s arrest, but were not notified of the bond hearing or release of the offender.

- 3) A third woman had nearly everything she placed on their Grandmother's grave stolen over a three-year period. She heard through social media that several other individuals have had the same complaint, and discovered the name of the suspect. Law enforcement helped her recover two of her Grandmother's stolen items from the grave of the suspect's husband. Police told her that the offender would be arrested the following morning and that she would be notified of the arrest and bond hearing. The victim was never notified about the offender's arrest or bond hearing. Instead, she discovered the arrest and bond hearing from the Detention Center's website. She took time off from work to attend the bond hearing. The Detention Center officer told her the judge was not yet present for the bond hearing, and to wait. After waiting for over an hour, she checked back in with the officer, only to be told that the hearing had been held and the suspect had already been released on a PR Bond for all three counts.

All victims wanted the offender's home searched so they could recover their stolen items, which held significant meaning to them. However, since they were not notified of her release, the offender was able to dispose of all the stolen items before they knew she was out of jail. The local recycle center reported that the offender brought in so many solar lights, angels, statues and benches that it filled the container, and had to be carted away. All items were lost.

When the victims called the Detention Center to find out why they had not be notified of either bond hearing or release, they were told that since their monetary loss was less than \$1,000, the Detention Center was not required to notify victims.

A Formal inquiry was opened with the cooperation of Law Enforcement, the Detention Center and Summary Court.

All victims reported that each law enforcement officer treated them with dignity and respect, and were very helpful during this painful time in their lives. However, some of them were notified about the arrest of the offender, and some were not. CVO verified that it was the policy of this Detention Center to not notify victims whose monetary losses were less than \$1,000. One law enforcement officer in one case also adopted this policy. They referenced the statutory definition of "criminal offense," in SC Code §16-3-1510(3), which states: "Criminal offense" means an offense against the person of an individual when physical or psychological harm occurs, **or the property of an individual when the value of the property stolen or destroyed, or the cost of the damage to the property is in excess of one thousand dollars.**"

Relevant Law

SC Constitution, Article 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:
 - (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;**

SC Constitution, Article 1, Section 24 (C).

(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.

SC Code §16-3-1520(D) A law enforcement agency, upon request, must make a reasonable attempt to inform a victim of the status and progress of his case from initial incident through:

(1) disposition in Summary court;

SC Code §16-3-1525(A) A law enforcement agency, upon effecting the arrest or detention of a person accused of committing an offense involving one or more victims, must make a reasonable attempt to notify each victim of the arrest or detention and of the appropriate bond or other pretrial release hearing or procedure.

(C) A law enforcement agency, upon effecting the arrest or detention of a person accused of committing an offense involving one or more victims, must provide to the jail, prison, or detention or holding facility having physical custody of the defendant, the name, mailing address, and telephone number of each victim.

(H) In cases in which a defendant has bond set by a Summary court judge:

(1) the arresting agency of the defendant reasonably must attempt to notify each victim of each case for which bond is being determined of his right to attend the bond hearing and make recommendations to the presiding judge. This notification must be made sufficiently in advance to allow the victim to exercise his rights contained in this article;

(2) **the Summary court judge, before proceeding with a bond hearing in a case involving a victim, must ask the representative of the facility having custody of the defendant to verify that a reasonable attempt was made to notify the victim sufficiently in advance to attend the proceeding. If notice was not given in a timely manner, the hearing must be delayed for a reasonable time to allow notice;**

Conclusion:

CVO provided the following information to the detention center, law enforcement and Summary Court: Constitutional law is the highest law of our state. It supersedes all statutory laws and rules of criminal procedure. We enclosed an Attorney General’s Opinion, issued on 2/24/14, which states *“This Office believes a court will find neither the South Carolina 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.”

It is not uncommon for jurisdictions to read the (older) statute (enacted in 1997, before the Constitutional Amendment, enacted in 1998) and believe it is not their duty to notify victims if their financial losses are less than \$1,000. After numerous conversations and correspondence, the agencies agreed to change their policy. The law enforcement Victim Service Provider arranged a meeting with all victims, the Sheriff and the head of the Detention Center “to express our sincere apology for any injustice they feel they suffered from our staff. Our staff is fully aware of the Victims’ Bill of Rights and that upon the victim’s request, the victim has the right to attend any court hearings involving their case, and also upon victim’s request, receive notification of the defendant’s release from custody regardless of the type of charge or dollar amount.”

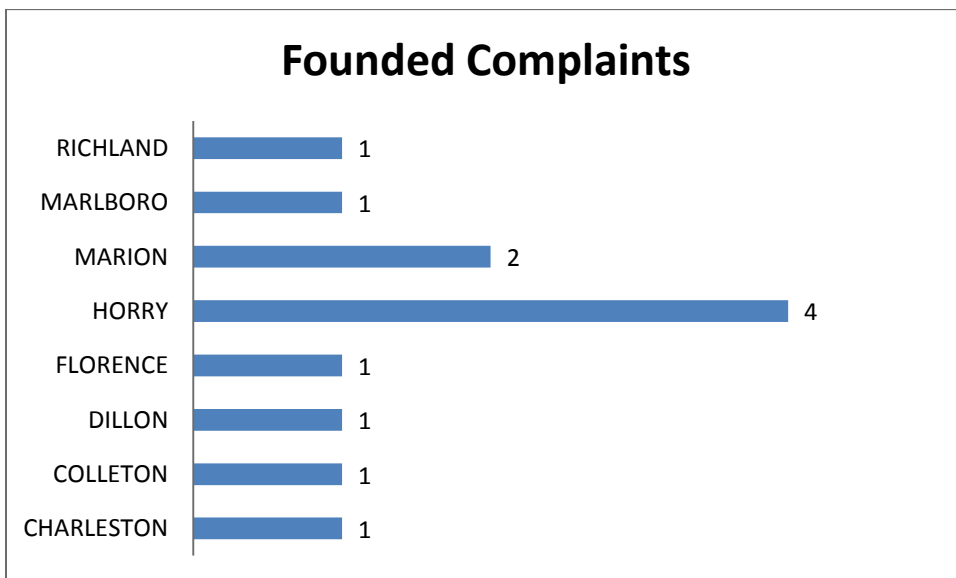
The Summary Court judge holding the bond hearing did not verify that a reasonable attempt was made to notify the victim sufficiently in advance to attend the proceeding.

Summary:

It is the duty of law enforcement to notify victims of a defendant’s arrest, and that a bond hearing will be held. It is the Summary Court judge’s duty to verify that a crime victim was notified and, if not, delay the hearing to allow notice. It is the detention center’s duty to notify crime victims when their offenders are released from custody.

Disposition:

No Notification/ Law Enforcement:	<u>FOUNDED (1 case)</u>
No Notification/ Detention Center:	<u>FOUNDED</u>
Right to be present and Heard/ Court:	<u>FOUNDED</u>



Criminal Justice System Assists

Case Examples:

1. Parole Agent in Charge at a county Probation and Parole department called requesting help. They requested that court postpone a domestic violence case so that the crime victim could be present and heard at a hearing to be held that day. She had violated probation for a former charge and was in temporary custody until a bed became available at a treatment facility. The Agent and Victim Service Provider believed she was motivated to finally testify against her offender, and requested the hearing be postponed until she could be present. However, the Court stated it was their belief that the defendant was the only person who can request a continuation of a hearing.

CVO immediately wrote the Judge (via email) and sent the Court the following case law:

SC Code §16-3-1535(F) The summary court judge must recognize and protect the rights of victims and witnesses as diligently as those of the defendant.

The Judge immediately agreed to postpone the hearing until the victim could be present for the domestic violence hearing.

2. Victim's relative set fire to her house. She was seven months pregnant, and had two other babies who were home during the arson. She had no insurance. Sheriff issued a warrant for arson and 3 counts of attempted murder. Suspect was still at large. Victim needed a building permit, a new ceiling and a final walk-through before she could move back into her house, but had no way to pay for the damage. She was currently sleeping on a friend's couch. CVO explained restitution to the victim, but cautioned that it was unlikely victim would recover her financial damages since offender has no job or other financial means. CVO contacted the local Law Enforcement VSP to see if she would work with local media to air this story to 1) help apprehend the offender, and 2) garner community support to help this family. Advocate successfully worked with the media to accomplish goals to help this victim and her family.

3. Prosecutor called to say the only person in town who was certified to pull NCIC reports refused to provide their Office or Court with the reports for bond hearings. After a meeting with all parties, CVO clarified that SLED required the NCIC operator to sign Memoranda of Agreement with any parties receiving the reports, but communication had broken down and the MOAs remained unsigned. CVO arranged for SLED to conduct a short training with all parties about the privacy of NCIC reports, and the issue was resolved.

- Provided technical assistance to law enforcement, courts, prosecutors and VSPs through sharing studies, sample policies, best practices/ procedures, relevant laws, practical advice, and arranging introductions for consultation with specialists
- Developed and distributed a sample brochure for law enforcement victim services
- Developed and distributed a Powerpoint entitled "The Duties of a LEVA" for training purposes

TRAINING

- 1,427 Victim Service and Criminal Justice professionals were trained by CVO this year.
- 80 VSPs completed CVO's online training: "Crime Victims' Rights and Services." (Locate this training on www.CVO.SC.GOV)

Outcomes of CVO Victims' Rights and Services Trainings:

99% of attendees surveyed strongly agreed or agreed that: *Their knowledge of the definition of crime victim increased.*

100% agreed that: *They better understand the constitutional rights of victims.*

100% agreed that: *They better understand the duties of the criminal justice system to victims.*

99% agreed that: *They are better prepared to serve crime victims.*

95% of trainees agreed that: *They will change some of the ways they perform their job duties as the result of CVO training* in the following ways:

- "By thinking outside the box, strong networking, and building extra resources."
- "Preparing victims more for courtroom procedures, restitution, etc."
- "I was unaware we had to inform victims of transfers within prison facilities."
- "I will try to have better communication with the reporting officer and victim advocate so I can inform the victim in a timely matter."
- "I can answer questions now when victims ask me."
- "I will be able to make referrals."
- "Be more patient and listen."
- "Educate others on how to react to and help victims."

Together We Stand.



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

South Carolina is the only state in the Nation that has elevated the level of professionalism of South Carolina Victim Service Providers (VSPs) by requiring them to complete annual specialized training to serve their constituents. OVSEC was established by statute in 2008 in SC Code §16-3-1620(C). Housed in the Office of Crime Victims' Ombudsman, OVSEC establishes certification and continuing education requirements for victim service providers, and is authorized to promulgate regulations requiring VSPs to maintain their mandatory minimum certification requirements. Private, nonprofit and public victim assistance programs are mandated to ensure that all victim service providers employed in their respective offices are certified through the Office of Victim Services Education and Certification.

AT A GLANCE:

- **225** Training Sessions were accredited by OVSEC
- **210** "Non-Approved" Trainings were reviewed and accredited by OVSEC
- **97** Trainings were posted to the OVSEC website
- **252** New VSPs and Notifiers were approved by OVSEC this year
- **3,363** VSPs and Notifiers training and certification records maintained

What Does OVSEC Do?

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.

Mandatory Training for Victim Service Providers (VSPs)

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.
- All Notifiers/ Support Staff working in Detention Centers/Courts must complete a 2-hour course regarding Victims' Rights and Statutes within one year from date of employment, and complete the same course every other year throughout their employment.
- 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. VSPs must request that extra hours carry over in writing via e-mail, fax or letter by the deadline set by OVSEC.

Types of Trainings

Accredited Trainings are submitted in advance to OVSEC by the agency/organization sponsoring the training. VSPs must sign OVSEC's official sign-out sheets in order to receive credit for attending an accredited training. Approved accredited trainings are listed on our website at <http://www.OVSEC.SC.GOV/training.html>.

Non-Approved 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 Non-Approved trainings by submitting a *Non-Approved Certification Request* online at www.OVSEC.SC.GOV and attaching all required documentation (proof of attendance, agenda and training information) in order to receive credit up to 30 days after a training.

OVSEC Program Enhancements:

Now, you can apply online! OVSEC developed an online **VSP Application and Training Accreditation** system to streamline the process to register as a VSP, or to have a training reviewed and approved for certification. The online applications may be found at www.OVSEC.SC.GOV.

VSP Basic Training Requirements:

15-hour **Basic Certification** requirements consist of:

- 1. SC Victims' Rights/Compliance/Statutes 3 hours**
- 2. Compensation Fund/SOVA 1 hour**
- 3. Ethics/Confidentiality 2 hours**
- 4. Criminal Justice System/Court Procedures 2 hours**
- 5. Case Management 2 hours**
- 6. Communication 2 hours**
- 7. Specialized Training 3 hours**

Approved Trainings, Training Requirements and Accreditation Standards may be found on OVSEC's website at: <http://www.OVSEC.SC.GOV>.

Office of the Crime Victims' Ombudsman STAFF

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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.



**CRIME VICTIMS'
OMBUDSMAN**

South Carolina Office of the Governor



State of South Carolina

OVSEC

**Office of Victim Services
Education and Certification**

Crime Victims' Ombudsman and OVSEC

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