

Governor's Office of the Crime Victims' Ombudsman
Annual Report FY 2012-2013



Message from the Crime Victims' Ombudsman

Most people in the criminal justice community know me as the former CEO of the South Carolina Victim Assistance Network. Many have heard me talk about my own experiences as a survivor of violence, which is the catalyst for my life's work as a Victim Advocate. As your new CVO, I am honored to continue to serve crime victims and those of you working on the front lines in the criminal justice system. Having just arrived, I am thrilled to see the professionalism of each staff member, and the high standards maintained by this Office.

“Problem solving” is a primary function of victim assistance, and that is what the CVO team does best. Each victimization brings unique circumstances that do not necessarily follow a predictable and orderly model, or respond to a specific technique of intervention. This Report is a reflection of the hard work of former CVO Debbie Depra Curtis and her dedicated staff, who answer inquiries from crime victims, investigate and resolve complaints regarding victims' rights and services, and maintain training standards of thousands of our state's Victim Service Providers. The numbers contained in this report do not adequately reflect the countless hours that staff dedicated to each person contacting this Office to help them find solutions to their problems.



Turn on the news, and it's no surprise to find that crime continues to impact the lives of South Carolinians. A recent report* indicates the following trends in crime:

- Overall, crime is disproportionately committed by males.
- Although crime tends to disproportionately affect racial and ethnic minorities (both as victims and offenders), most crimes are committed by whites against whites.
- Certain populations are disproportionately affected by crime, not necessarily because of the sheer numbers of victims but as a result of crime's greater impact on these groups (e.g., elder victimization, crime against persons with disabilities, children, youth, and teen victimization).
- Young people (16-24) are the population group most victimized by crime. They also commit the most crimes.

The old adage that “Victim Service Providers wear a lot of hats” is an understatement. Victim Service Providers (VSPs) have traditionally been considered “generalists,” with *a little knowledge about a lot of topics*. VSPs receive a great deal of “on-the-job training” since little

can prepare anyone for the many challenges that VSPs face in their daily work. In an effort to prepare VSPs to undertake this monumental task, OVSEC provides oversight of training, education, and certification of victim assistance programs. Education, experience, commitment, empathy, listening skills, and plenty of courage are essential to affect change in the lives of crime victims and to assume the professional responsibilities of Victim Service Provider.

South Carolina is nationally recognized for its services to crime victims. We are able to accomplish so much because our laws clearly delineate our duties, and we leverage each other's strengths and resources to provide "wraparound services" to victims. Please call me if I may be of service to you. I look forward to working with you to insure that South Carolina continues to respond effectively, and with compassion, to those in need.

Veronica Swain Kunz
Crime Victims' Ombudsman

*2013 NCVRW Resource Guide, Statistical Overview



Governor's Office of the
Crime Victims' Ombudsman



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Mission



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

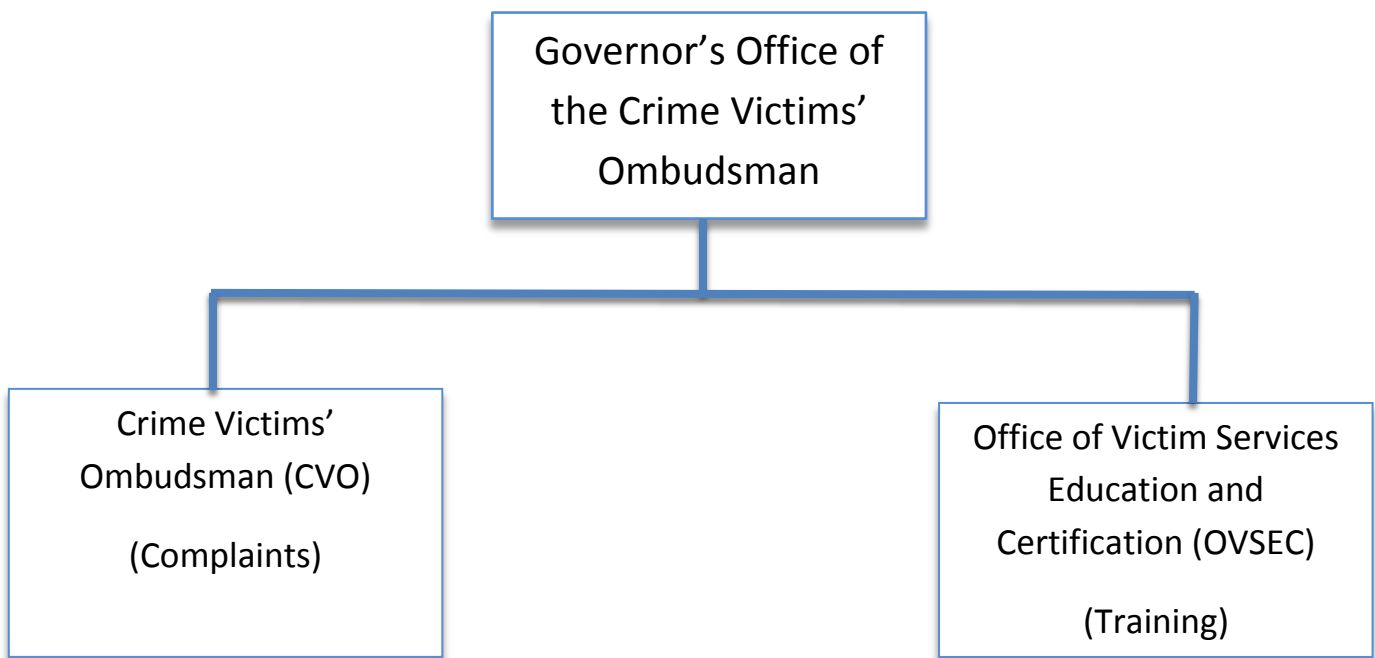
Vision



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

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) section handles complaints from victims of crime; (2) The Office of Victim Services Education & Certification (OVSEC) handles certification of Victim Service Providers (VSP) and Notifiers/Support Staff, approves trainings for continuing education purposes, and maintains records of all VSPs and trainings.

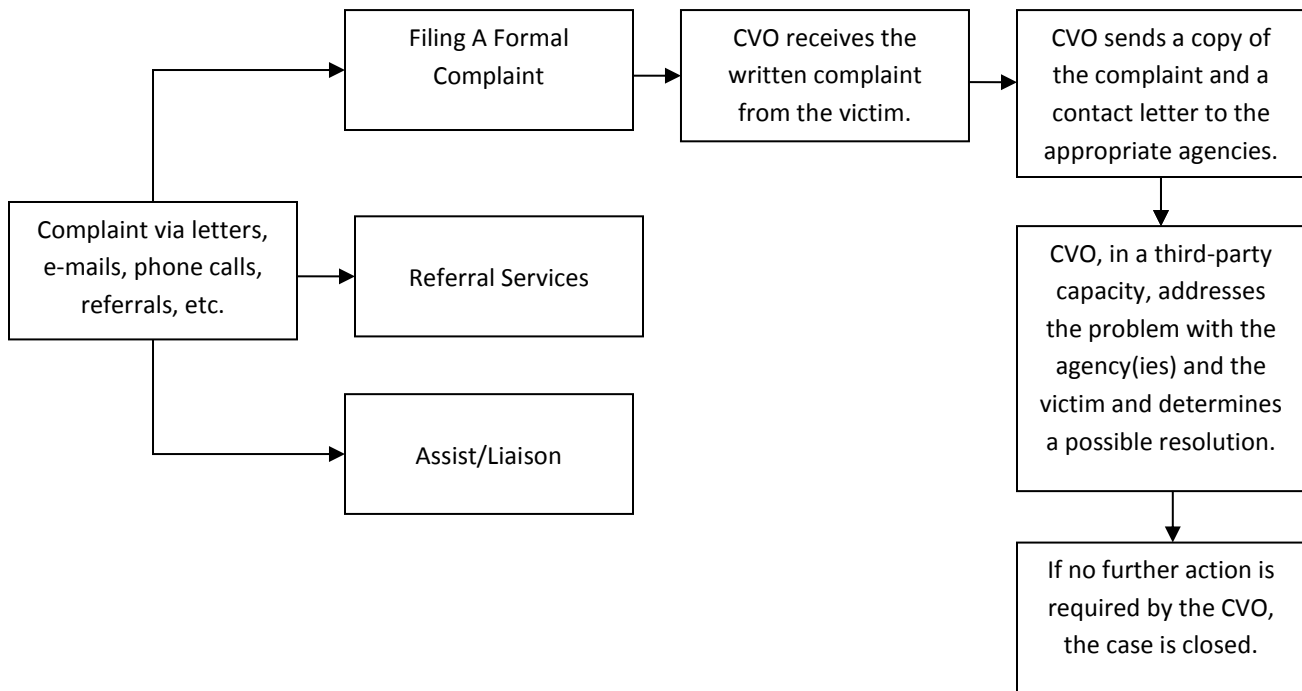


At A Glance...

- 2,653 Phone calls received by CVO and OVSEC
- 577 Referrals/Assists for CVO
- 94 Formal Cases investigated
- 288 New VSPs and Notifiers registered with OVSEC in 2012
- 2,072 Total active VSPs and Notifiers in 2012.
- 293 Trainings were approved by OVSEC (many trainings are repeated often, requiring separate processing by OVSEC for each session)
- 1,500 VSPs / Notifiers were trained by the CVO

Crime Victims' Ombudsman – Complaint Section

General Overview How Complaints Are Handled in the CVO



The primary responsibility of the Office's Complaint's Section 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) Referral(s)

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) Assist/Liaison

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

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. By choosing this option, the CVO then 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 refers that victim to the law enforcement victim advocate for assistance. The CVO also advises the victim that he/she may call the State Office of Victim Assistance (SOVA) directly and if neither of those options work, to call CVO back.

Assist

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

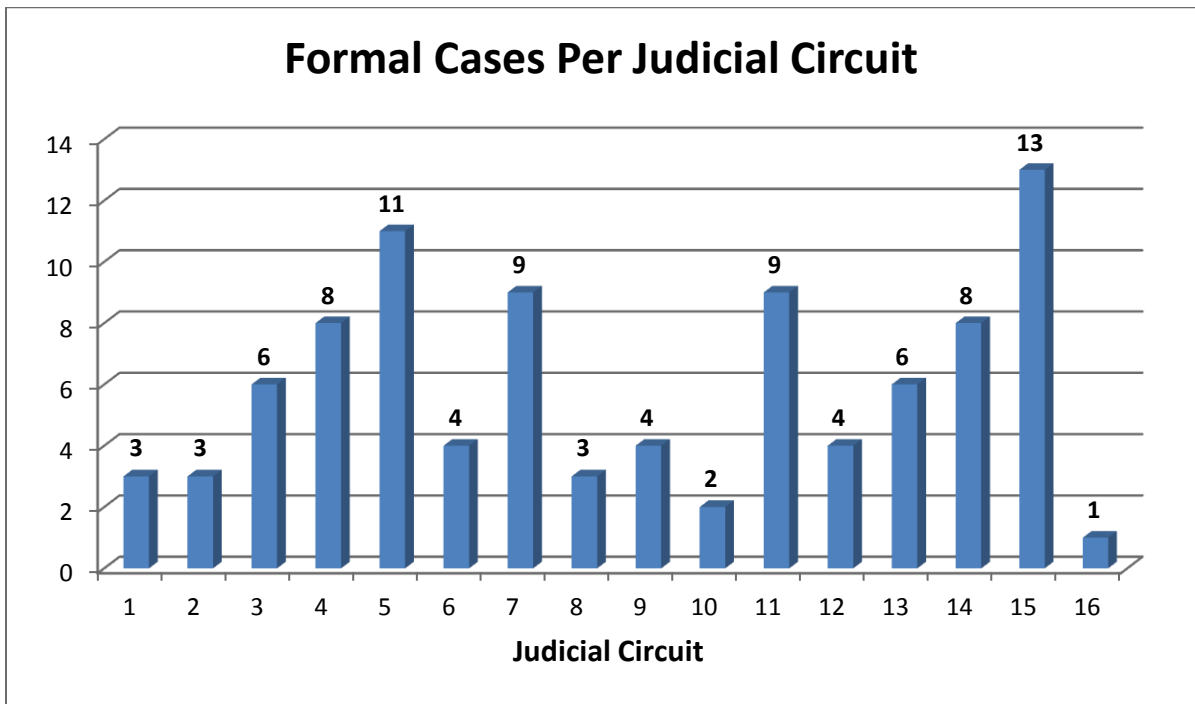
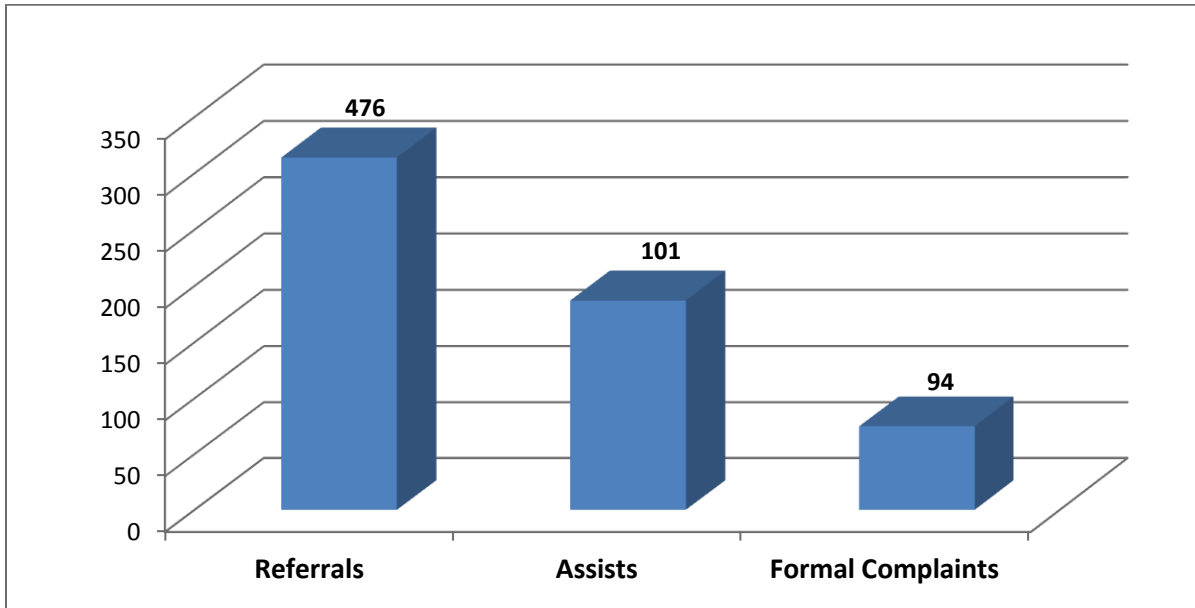
CVO will offer to call the Solicitor's office and advise the Solicitor and/or victim advocate of the victim's concerns and ask for someone to call victim back. CVO then advises the victim that s/he should receive a phone call and, if not, to call CVO back.

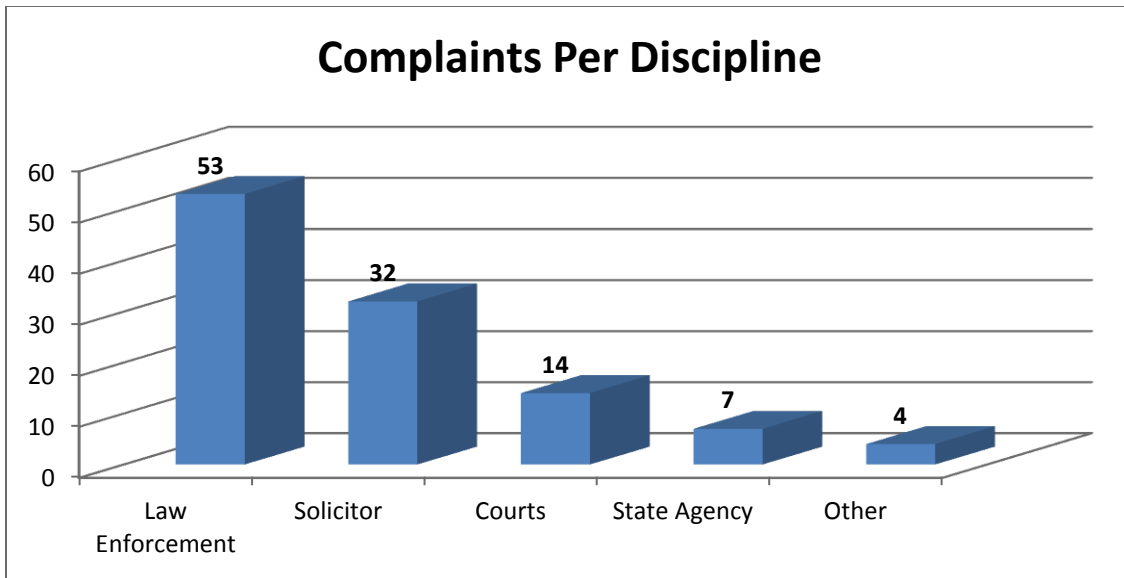
Formal Case

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

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

Fiscal Year 2012-2013 Statistics





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

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

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

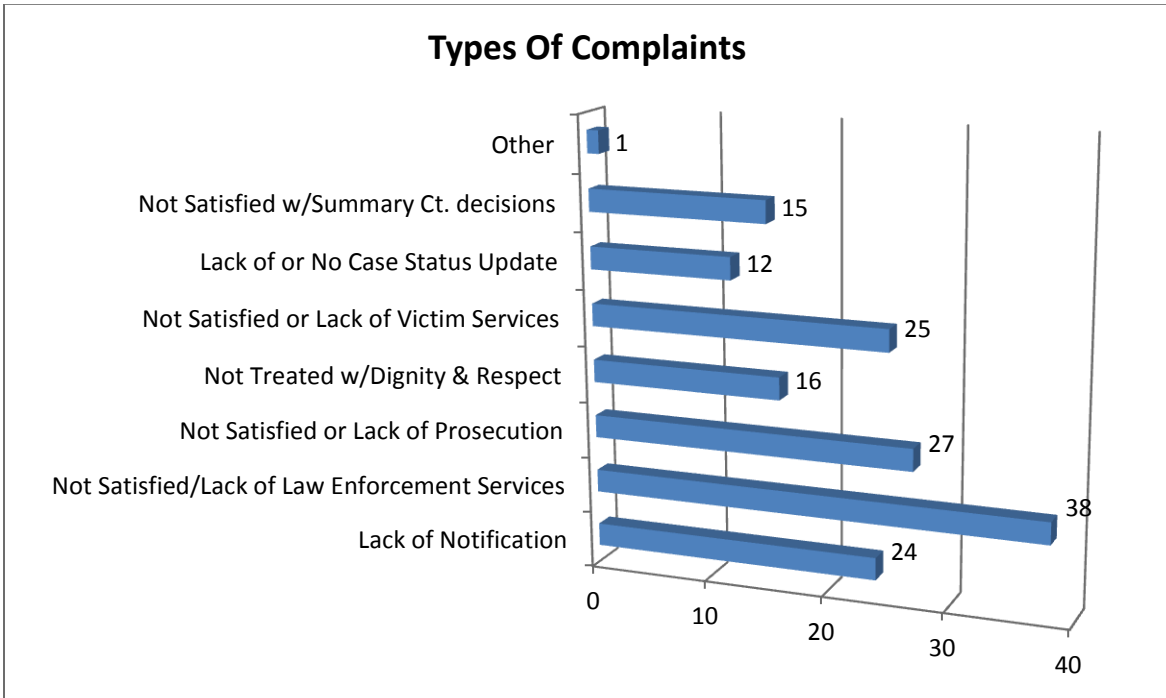
Summary/Municipal Courts: All Magistrate and Municipal Judges, their clerks and staff

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

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

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

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



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

Of these complaints, 54 were unfounded, 15 were not justified, 15 were founded and 10 were dismissed. The guidelines for each of the dispositions are as follows:

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

Types of Complaints

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

Case Summary #1

Crime: DUI / Leaving the Scene of an Accident

Complaint: Solicitor did not confer with victim and dropped charges against defendant.

Subject(s) of Complaint: Law Enforcement and Summary Court

Scenario: A pedestrian was struck by a driver and sustained severe injuries. The driver left the scene. The defendant was apprehended and ticketed by Law Enforcement (LE) for Driving Under the Influence (DUI) and leaving the scene of an accident with injuries.

An inquiry was opened against Law Enforcement and the Magistrate Court Judge.

LE ticketed the defendant for Driving Under the Influence and leaving the scene of an accident with injury. The matter was scheduled initially for a bench trial; however, at the defendant's request, the case was rescheduled for a jury trial and set by the court. During this time, LE was placed on indefinite leave without pay. Subsequent to this action, LE notified the court of the leave and an indefinite date of return. This information was confirmed with several officials and e-mailed to the court clerk with the work schedule indicating "Leave Without Pay" status, informing the court that LE would not be available to testify at trial. Disregarding this information, the court set a date for the hearing and notified the victim.

On the afternoon of the court date, the victim and family appeared at the Magistrate's office approximately 20 minutes prior to the time which they had been summoned. On arrival they observed a sign on the door stating that all jurors had been dismissed for the day. An attorney in passing informed the family that the jurors were let go because the day's cases had been "settled." Despite the multiple notifications that LE remained on leave, the court proceeded to call the case in LE's absence. No jury was sworn. Instead, the defense attorney moved for a Directed Verdict, arguing the State "failed to produce any evidence from which the jury could find his client guilty." The court orally granted the Motion.

An Order was submitted and signed without affording all parties an opportunity for review. The Order contained purported factual findings that were vigorously disputed by the State. The State appealed based on the fact that the Magistrate erred as a matter of law in directing a verdict of not guilty in this case for the reason set forth. The State prevailed and a new trial was ordered.

Relevant Law

SC Code §16-3-1505. Legislative intent.

"... that the rights and services extended in this article to victims of and witnesses to a crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants; ..."

SC Code §16-3-1535 (F) Summary court's duty to notify victim of victim's rights; form for victim impact statement.

(A) The summary court, upon retaining jurisdiction of an offense involving one or more victims, reasonably must attempt to notify each victim of his right to:

- (1) be present and participate in all hearings;
- (2) be represented by counsel;
- (3) pursue civil remedies; and
- (4) submit an oral or written victim impact statement, or both, for consideration by the summary court judge at the disposition proceeding.

(F) The summary court judge must recognize and protect the rights of victims and witnesses as diligently as those of the defendant.

18 U.S.C. § 3771. Crime victims' rights

(a) RIGHTS OF CRIME VICTIMS. – A crime victim has the following rights:

(3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.

Conclusion

The Magistrate erred as a matter of law in directing a verdict of not guilty in the defendant's favor or otherwise dismissing this case.

This case was FOUNDED.

Case Summary # 2

Crime: Assault and Battery

Complaint: Solicitor did not confer with victim and dropped charges against defendant.

Subject(s) of Complaint: Solicitor

Scenario: A man was injured during a fight and received severe injuries. A Defendant was arrested and charged with Assault and Battery 2nd degree. The victim contacted the CVO to complain that the Solicitor accepted a plea bargain, did not notify him, and let the defendant go free, in violation of his rights as a crime victim.

A formal inquiry was opened against the Solicitor.

On Christmas Eve, a fight broke out in a bar. Five people were injured, two severely, having been beaten with pool cues by three suspects. A number of patrons and employees witnessed the incident. CVO requested and received all case incident reports from law enforcement on all victims; statements from witnesses and the complaining victim; arrest warrant for the defendant; statements from the victim on

SOVA filing; and a closure letter from the Solicitor. The Solicitor wrote to the victim explaining that he would not be able to prosecute his case. In his lengthy and respectful letter to the victim, the Solicitor referenced conversations he had previously had with the victim where he attempted to explain his decision. The letter explained that a review of videotape evidence revealed discrepancies in the victim's statement, and the Solicitor did not believe he had sufficient evidence to prosecute. Additionally, the Solicitor negotiated a financial settlement for the victim for injuries over and above victim compensation, and had the Defendant reimburse SOVA for his medical expenses. The Solicitor apologized for not being able to prosecute the case.

Relevant Law

SC Constitution, Article I, Section 24 (A)(7)

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

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

Prosecutors may pursue a case to trial, or they may plea bargain it down to a lesser offense or they may simply decide not to prosecute the offense in its entirety. State v. Thrift, 312 S.C. 282, 291-92, 440 S.E.2d 341, 346 (1994).

Conclusion

The Solicitor used his prosecutorial discretion to make a determination in this case and conferred with the victim in accordance with the victim's legal rights.

This case was UNFOUNDED.

Case Summary # 3

Crime: Assault 3rd Degree, Trespassing and Harassment

Complaint: Victim was not notified about a bond hearing.

Subject(s) of Complaint: Law Enforcement and Summary Court

Scenario: A victim filed a report with Law Enforcement (LE) that his neighbor trespassed on his property, harassed and assaulted him. The next week, the victim went back to the police station to report two additional incidents. According to the victim, LE tried to discourage him from pressing charges, but the victim insisted and assured him he would be present for all proceedings. LE gave the victim a potential court date, and told him he would be contacted when the warrant was served. The victim unsuccessfully attempted to contact LE a number of times in the following weeks, and finally went to the police station. After looking at the case file, another officer informed him that the defendant's information was not filled on in his report, which precluded him from serving a warrant. After filling out the information, this officer served the warrant.

The victim was contacted by the initiating officer and was told the bond hearing would be held that afternoon, but discouraged him from attending. The victim stated he had the legal right, and wanted to be present at every hearing.

The victim was on the way to the bond hearing when LE called his wife's phone, but left no message. The victim immediately returned the call and was told by LE that the hearing had already taken place earlier that morning, and that the defendant had been released. When the victim arrived at court, he spoke to the judge about holding the hearing without him being present. The victim alleged that the judge told him LE said that the victim did not wish to be present.

An inquiry was opened against Law Enforcement and the Summary Court.

During the course of the inquiry, the CVO obtained a statement from the victim, law enforcement officer, copies of documentation regarding the court date, warrant and victim information sheet.

LE provided a written statement to CVO that the defendant turned herself in to police in the morning after having been served with the warrant. LE notified the victim about the bond hearing that was to be held in the afternoon. He transported the defendant to jail, and went to bond court to turn in paper work. Defendant's attorney was already there and a bond hearing was immediately held. LE stated he advised *the defense attorney* that the victim wanted to be present, but the defense attorney told him she had a "tight schedule" and the hearing was immediately held. When the victim returned his phone call, LE explained that "this was a decision by the court, which I had no control over."

Additionally, CVO attempted to get a copy of the transcript of the bond hearing, as well as a statement from the judge regarding whether or not s/he inquired about victim notification for the hearing. The court was unable to locate the transcript of the bond hearing. The judge's attorney responded that, since the matter was ongoing, the judge would not respond to the specifics of this particular case. However, the judge's attorney confirmed that it is standard practice of the court to confirm whether or not victims have been notified.

Relevant Law

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

(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;

SC Code §16-3-1525(H)(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.

SC Code §16-3-1525 (N) requires that notification may be electronic or other automated communication or recording. After three such unsuccessful attempts, personal contact with the victim should be attempted. If notice was not given in a timely manner, the hearing must be delayed for a reasonable time to allow notice.

Conclusion: Law enforcement violated victims' Constitutional rights 1-5. CVO was unable to verify whether or not the Summary Court violated the victim's rights.

The complaint against the Law Enforcement was **Founded**.

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

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 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.

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:

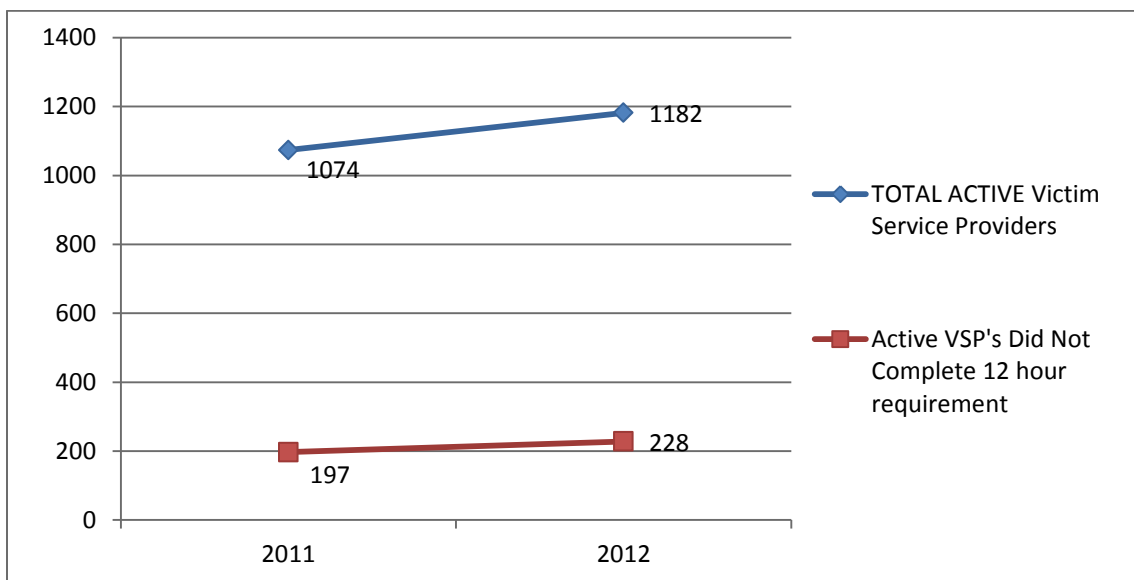
- (a) who is employed by a local government or state agency and whose job duties involve providing victim assistance as mandated by South Carolina law; or
- (b) whose job duties involve providing direct services to victims and who is employed by an organization that is incorporated in South Carolina, 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 provider *does not include* a municipal court judge, magistrate court judge, circuit court judge, special circuit court judge, or family court judge.

Notifiers/Support Staff are individuals who provide notification to crime victims but do not provide advocacy. Notifiers are usually employed in detention centers and summary 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.)

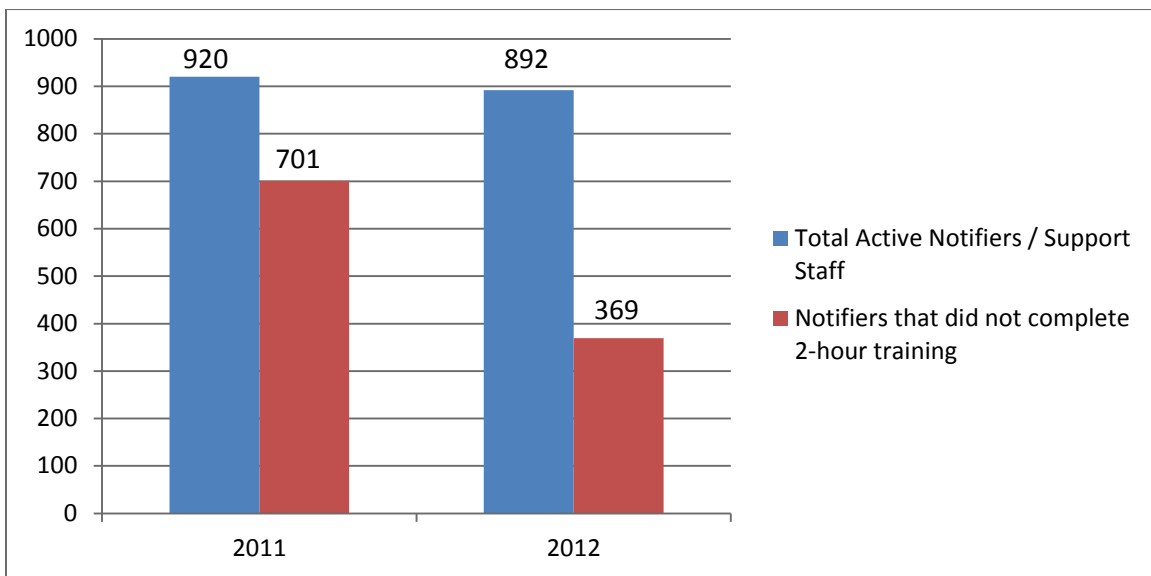
Victim Service Providers

In calendar year 2012, the number of active victim service providers rose to 1,182 from 1,074 the previous year. Comparatively, the number of active VSP's who did not complete the mandatory 12 hour training rose to 228 from 197 the previous year.



Notifiers/Support Staff

In 2012, there were **892** total active Notifiers/Support Staff. **369** of them did not comply with training requirements and get their mandatory 2-hour training. In 2010, there were 920 active Notifiers/Support Staff; 221 of them did not attend mandatory 2-hour training. (Please note that in 2011, 76% of all Notifiers **did not comply** with the training mandate.) The main reason Notifiers and Support Staff were not able to comply with the mandate was that only four (4) Notifier trainings were conducted in 2011. As a result, the Victim Services Coordinating Council waived the requirement for 2011 only. To remedy this barrier to training, the CVO conducted 14 trainings in 2012 to over 1,500 Notifiers/Support Staff.



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.
- Notifiers/ Support Staff must complete their annual 2-hour training requirements.
- VSPs and Notifiers/Support Staff must complete their annual training by December 31st each year.
- 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.

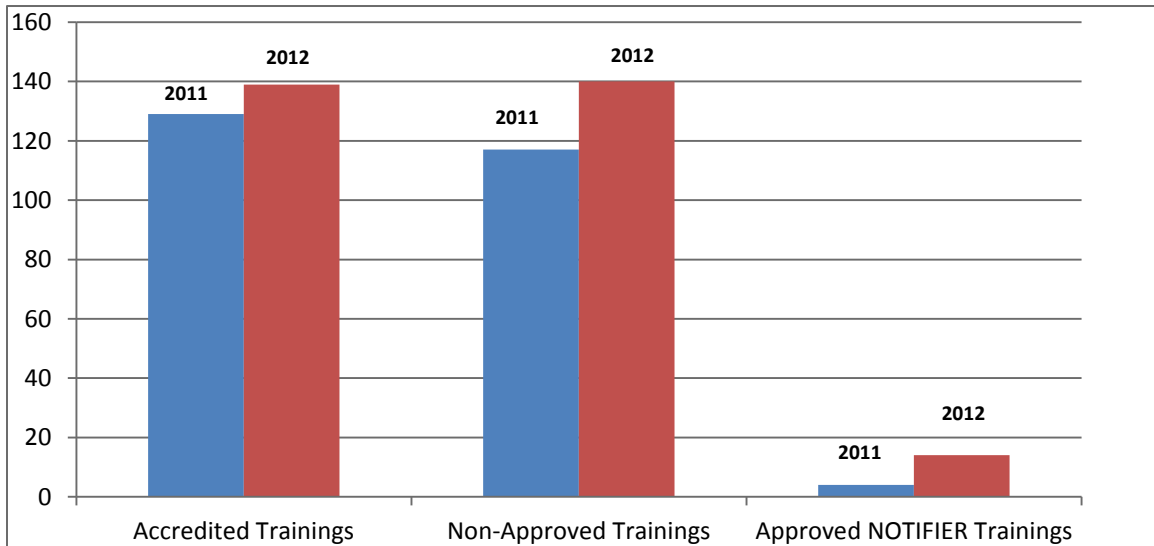
Types of Trainings

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.oep.sc.gov/ovsec/training.html>.

Non-Approved Trainings are trainings that are related to crime victim services, but have not been accredited by OVSEC. These 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* and all required documentation (proof of attendance, agenda and training information) in order to receive credit up to 30 days after a training.

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 request credit hours for Specialized Training; **3)** to receive credit for a “Non-Approved Training” and **4)** to have a training you are conducting Accredited by OVSEC.



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:

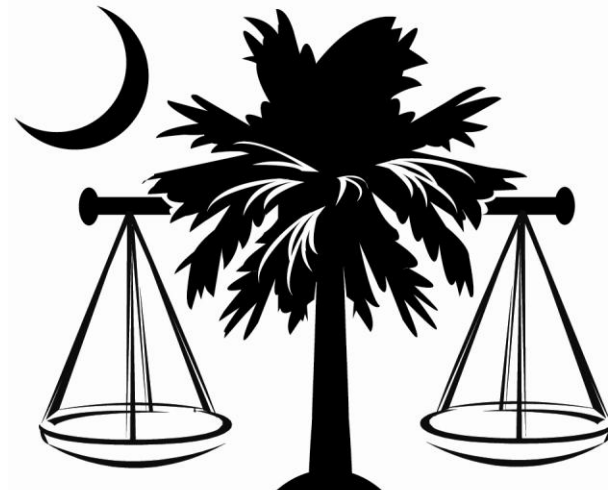
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CRIME VICTIMS' OMBUDSMAN

South Carolina Office of the Governor



State of South Carolina

OVSEC

Office of Victim Services
Education and Certification

Crime Victims' Ombudsman and OVSEC

Office of Governor Nikki Haley

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