

Department of Crime Victim Ombudsman

Annual Report FY 2020 – 2021



A Message from the Ombudsman

“Why do defendants have more rights than crime victims?” We are asked this question often and have seen this idiom realized during the pandemic. One of the reasons why victims’ rights are sometimes an afterthought during the criminal justice process is because they are new compared with defendants’ rights, which have been litigated for over a century. 1998 was not so long ago ... my child was a senior in high school when South Carolina’s crime victims’ constitutional rights were established!

Ask any group of lawyers whether they learned anything about victims’ rights in law school and you will likely hear a resounding “no.” As everyone knows, new regulations and rules take time to become ingrained, and it is this void that the Crime Victim Ombudsman (CVO) attempts to fill.

In this Report, you will see our statistics confirm our concerns: the rights of crime victims are too often the last to be considered by the members of the criminal justice system. Judges release ‘low-level offenders’ from jail due to the dangers posed by COVID-19 through agreements made between prosecutors and defense attorneys, without holding a hearing where victims may be present and heard. Victims’ spouses are not allowed to attend the few hearings held “in person” due to COVID restrictions.

Victim Service Providers (VSPs, also known as Advocates) stand ready to help victims and survivors throughout all stages of the criminal justice process, and in non-profit agencies designed to meet the specialized needs of survivors of violent acts.

It makes me very proud to be a small part of this community, and it gives me great pleasure to present the *South Carolina Crime Victim Ombudsman’s Annual Report for 2020-2021*, which is mandated by S.C. Code Section 16-3-1630. We are available to answer any questions you may have about this Report, or about South Carolina’s crime victim services system. We are here to serve.

Thank you for all you do to help others!



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South Carolina Crime Victim Ombudsman



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

Our Philosophy: Building a Better Victim Services System

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.
- 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 / 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.

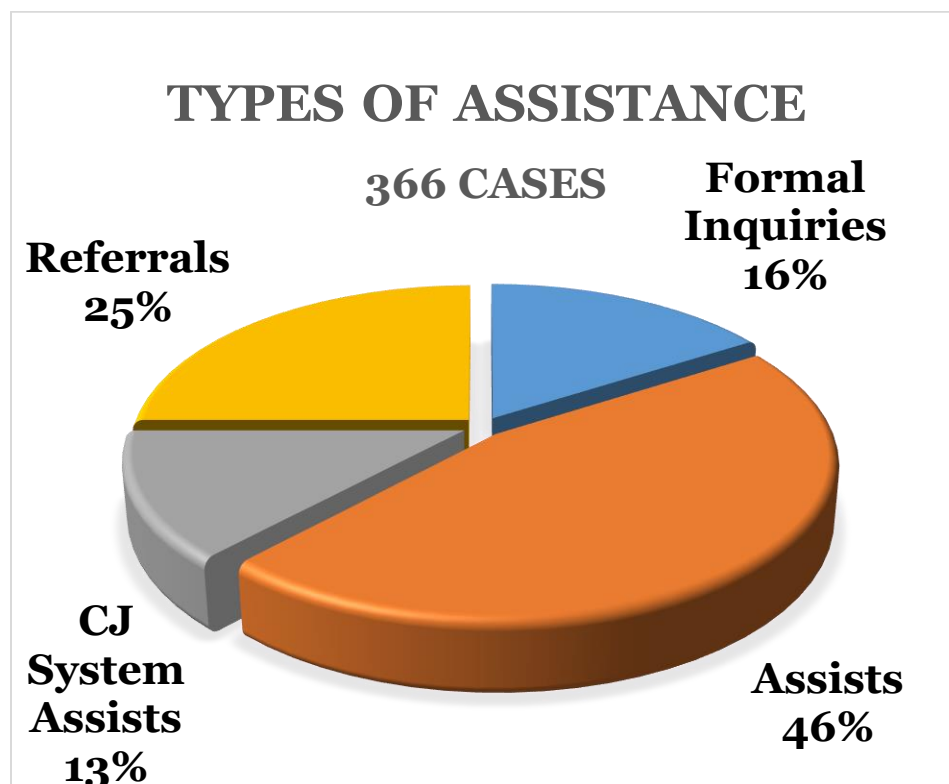


How We Accomplish Our Mission

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

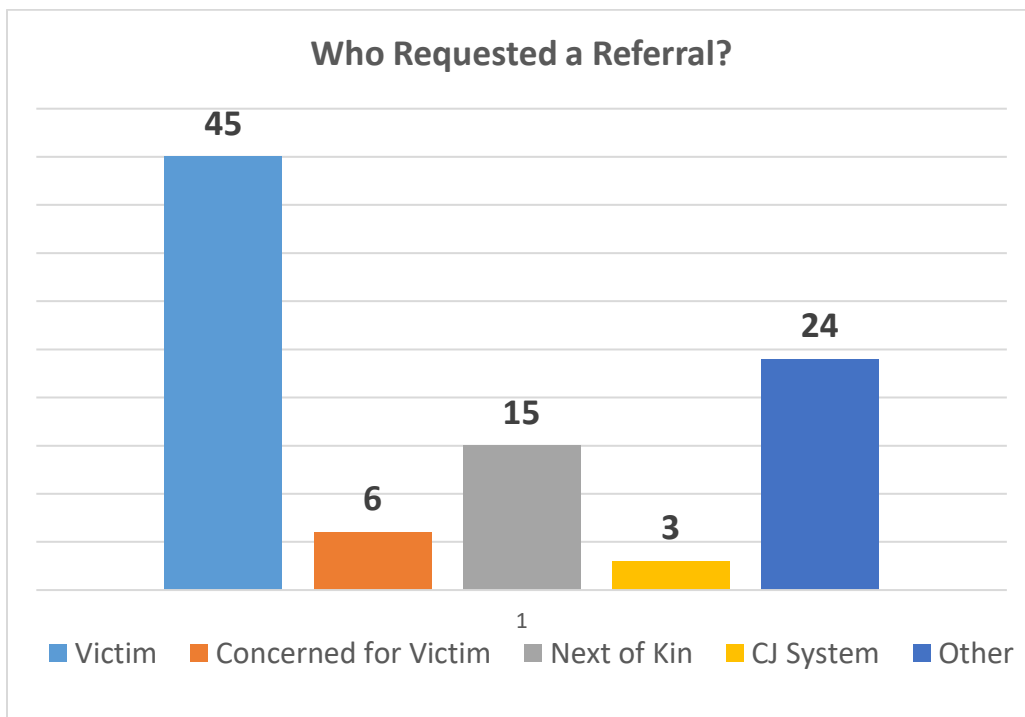
1. **Refer crime victims** to the appropriate element of the criminal and juvenile justice systems or victim assistance programs, when services are requested by crime victims or are necessary as determined by the Ombudsman;
2. **Act as a liaison** between elements of the criminal and juvenile justice 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.

2020 – 2021 STATISTICS



CVO PROVIDES REFERRALS

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



REFERRALS



Case Examples: REFERRALS

- A caller's elderly father was allegedly being abused in a nursing home.
- A LEVA needed resources for aging victims.
- The parent of a gunshot victim was upset that an offender was released on bond.
- A caller says he was arrested for being mentally ill. Is that legal?
- A caller's parent was in nursing home but wanted to bring him home. Is that allowed?
- A laptop was stolen at hospital; security would not take a report.
- An advocate needed information about "signs of batterers" and information about attorneys to help low-income victims.
- Despite reporting numerous harassment incidents involving ex-spouse / DV 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 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 man was assaulted by his child but no arrest was made. The eviction process was taking too long and the family wanted to move him back home immediately.
- A caller's child was killed in a drive-by shooting and wanted the custodial parent arrested.
- A caller pled guilty to charges they did not commit and was upset that they were charged again with similar crimes.
- An advocate was trying to find an interpreter for a victimized family.
- Numerous callers wanted information about a Confidentiality Address Program.

- An assault victim's relative has questions about what to expect in court tomorrow.
- A funeral home inquired about financial assistance available for a victim of hit-and-run.
- A caller needed help with trauma and relocation to a safe place.
- A neighbor continued to harass caller who wanted their guns removed.
- A vulnerable adult needed information about reporting an incident.
- A caller's brother was assaulted with an axe. Was he a victim?
- Vacationers were upset that a hotel manager was rude and scared them. Was this a hate crime?
- An offender requested help to have her victims arrested for harassing her.

Two Types of 'ASSIST' Cases:

153 Assists

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

47 CJ System Assists

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

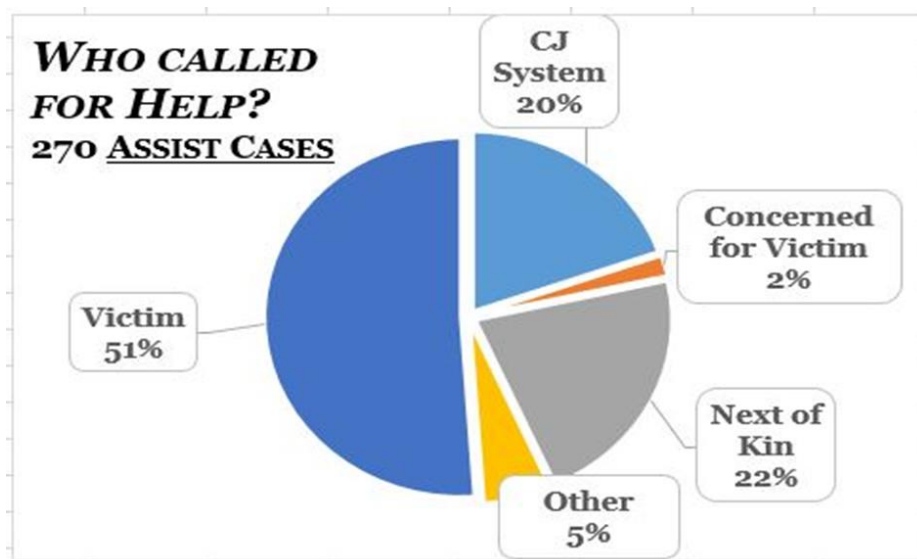


Why Call CVO for Help?

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

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 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. ***This year, 72% of Assist cases are requests for help from crime victims or their loved ones.*** These cases are more involved than referrals and can take anywhere from a few phone calls 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.



EXAMPLES: 'VICTIM ASSIST' CASES

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

- A survivor of stalking was not notified of a probation violation hearing and was unable to request Permanent Restraining Order.
- A man called us to say his wife was raped by man currently in a Georgia prison. The rapist kept writing her letters from prison and he wanted to know how to stop him.
- A number of victims reported offenders not paying restitution and about the court's inability to hold offenders accountable for disobeying legal directives.
- Numerous survivors of domestic violence requested our help to have their offenders' "no contact" orders lifted and criminal charges dismissed. (Note: CVO confers with survivors about other strategies to find resources / remain safe and encourages them to contact local domestic violence agencies for further help.)
- A survivor of stalking called seeking advice about whether or not to report crimes.
- A victim of an aggravated assault was not notified when the offender was released from jail.
- A caller was unhappy with an investigation into a fatal car wreck and lack of charges.
- Numerous callers were upset that their offender had not yet been arrested.
- Family court was shut down and a victim needed to immediately file for an Order of Protection.
- After a car crash, a firearm was taken by police for safety and caller needed help to have it returned.
- A caller was assaulted by a coworker. They did not receive information about victims' rights and a Judge did not allow them to be present or speak during a virtual bond hearing.
- A caller wanted a different police agency to investigate their case due to a perceived conflict of interest.

- A survivor of domestic violence was concerned about her two infants' safety during unsupervised visitation with her ex-spouse.
- A caller was upset that an offender was out on bond charged with 'Discharging a Firearm into a Vehicle' rather than 'Attempted Murder.'
- A caller was having problems with a relative who refused to leave her home and was stealing money from her.
- A caller reported a theft but decided they did not want offender prosecuted.
- A victim said they had over \$20,000 in medical bills and wanted charges upgraded.
- A caller's ex violated a Permanent Restraining Order while in prison and needed help reporting to the appropriate agency.
- A grandparent was concerned that a sex offender lives next door to their grandchildren and was video recording them.
- A defendant was released from jail without notifying victims and was calling them with threats.
- A victim was concerned that media printed their names in the paper.
- Prosecutors refused to return murdered son's belongings. Their case involved five defendants, four of which have outstanding appeals.
- A family believed their loved one was murdered rather than died by suicide.
- Numerous victims were upset that they were not notified of bond reconsideration and probation revocation hearings.
- A victim was concerned that the Solicitor offered Pre-Trial Intervention without conferring with them prior to the offer.

Questions from "Other"

- A lawyer wanted to know how a VSP would assist a married couple who are involved in a "mutual combat" case.
- A walk-in wanted to know if a Blue Cross settlement he received in the mail was legitimate.

- A caller said that a local Sheriff's Office gave them cancer.
- An attorney for a victim of human trafficking was concerned that ICE agents refused to allow them to attend a 'forensic' interview with a client.
- A caller was upset at a 'stand your ground' ruling on their brother's shooting death.
- A person claimed that their neighbor was cyber attacking them through the TV and phone.
- A caller wanted their neighbor arrested for trespassing on their side of a shared roof.
- A person complained that law enforcement was lying about them, which resulted in a conviction for dealing meth.
- A caller complained law enforcement and private investigators were stalking them.
- An attorney for a victim of a hit-and-run wanted bodycam footage before the criminal case is disposed of. Would victims' rights attach on a hit and run?



'CRIMINAL JUSTICE ASSIST' CASES

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. If you need help or answers to any of the questions listed below, please call us!

Our stakeholders in the victim services / criminal justice community called asking the Ombudsman for help with the following issues:

- The father of murdered woman did not want her mother to have any information about case progress from police because her parental rights had been terminated years prior.
- Judges are asking police to personally notify victims of court hearings. Is this appropriate?
- A Solicitor was seeking a domestic violence expert witness for trial.
- A LEVA was concerned that a Judge did not give bond restrictions for an offender who attacked his wife with gun/axe in front of toddlers.
- The director of an agency in Virginia wanted to develop a program like CVO.
- The child of a woman murdered by their father did not want to be notified and does not consider themselves to be a victim. Should the VSP still notify them?
- A survivor of domestic violence was deployed and unable to attend the plea hearing but emailed a Victim Impact Statement (VIS) to a VSP. The court was reluctant to have the VSP read the VIS in court stating that written statements are not allowed. Is that correct?
- A LEVA had a new sheriff who did not know what a VSP's role was and requested training materials.
- A Solicitor Advocate wanted to know what a victims' rights attorney does.

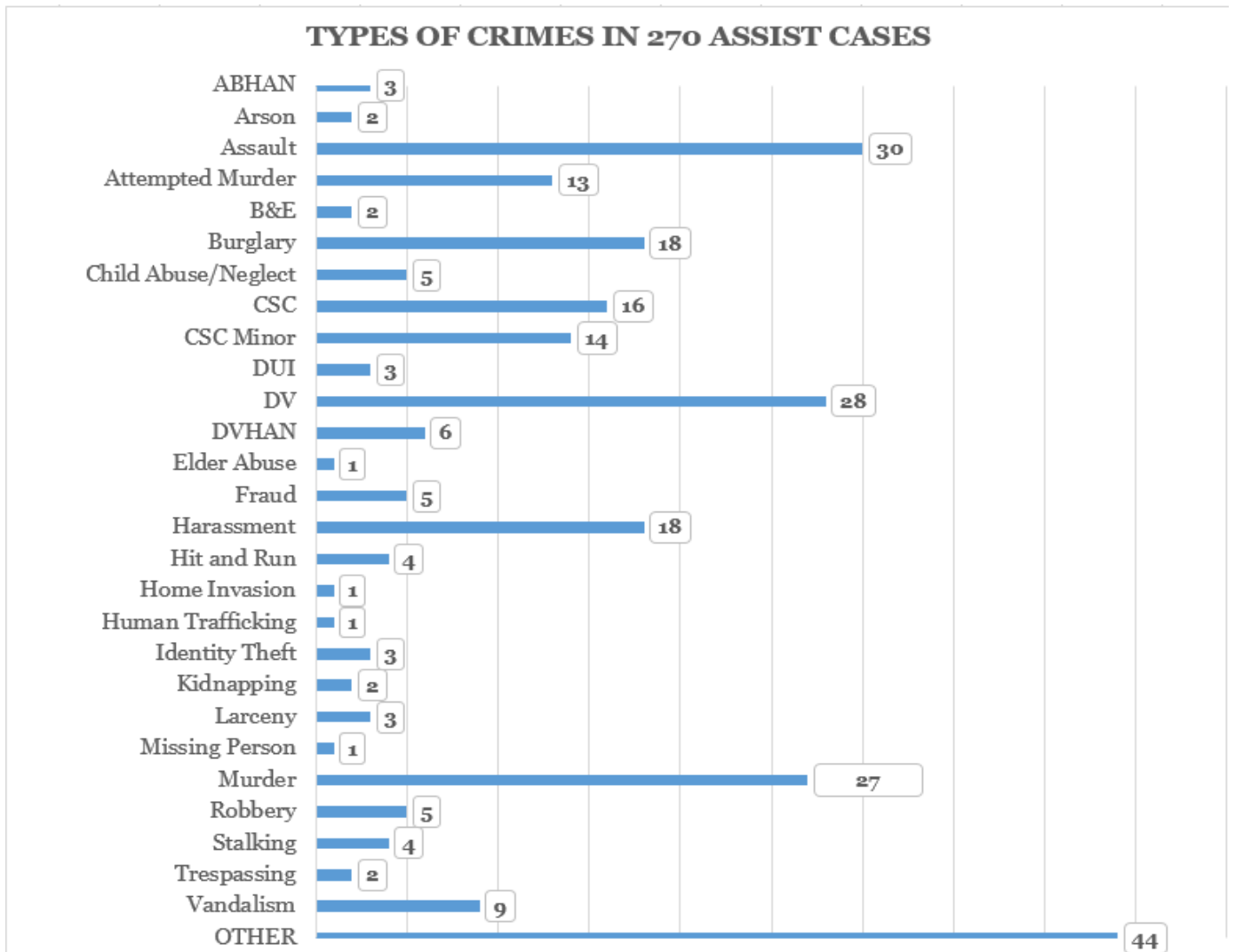
- A drunk driver crashed into man's business and rental properties. Are there resources available for this victim?
- An offender violated an Order of Protection three times and was jailed twice. During a third hearing, the judge misunderstood the past record and released the offender on a PR bond. The victim was not notified of the hearing. The VSP believed the case should be stalking at this point.
- A Solicitor Advocate wanted to know whether a drug dealer could be prosecuted for murder if he causes an overdose death.
- A Solicitor Advocate's notes were subpoenaed. Do those Advocates qualify as "third parties" with regard to SCRCrimP Rule 13(a)(2)?
- A VSP wanted to know how to advocate for a victim after his insurance dropped him after filing a claim related to the crime.
- A victim was molested as a child; they are now an adult. The mother was the prior contact for notification; the victim no longer wanted mom involved. What should the Advocate do?
- A judge had question about making notifications about bond hearings; requested statutes.
- A LEVA called to make sure the victim's rights were not being violated by rescheduling a bond hearing.
- A Chief of Police wanted to create a position for a Specialized Latino Investigator. Does the state track data about unreported crimes by Hispanic citizens?
- A state agency needed guidance about notifying victims of a serial killer making money from his crimes in violation of "Son of Sam" laws.
- A Solicitor requested relocation assistance for two kidnapping/murder witnesses.
- A LEVA called to consult about a victim of sexual assault who was being evicted.

CVO Successful 'Assist' of the Year: *Christina Toler*

A victim reported that harassment allegations were not thoroughly investigated by police. After CVO intervention, the case was turned over to the Solicitor. The offender pled guilty to Harassment 2nd degree and consented to a Permanent Restraining Order without the victim having to appear in court.

CVO DATA:

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



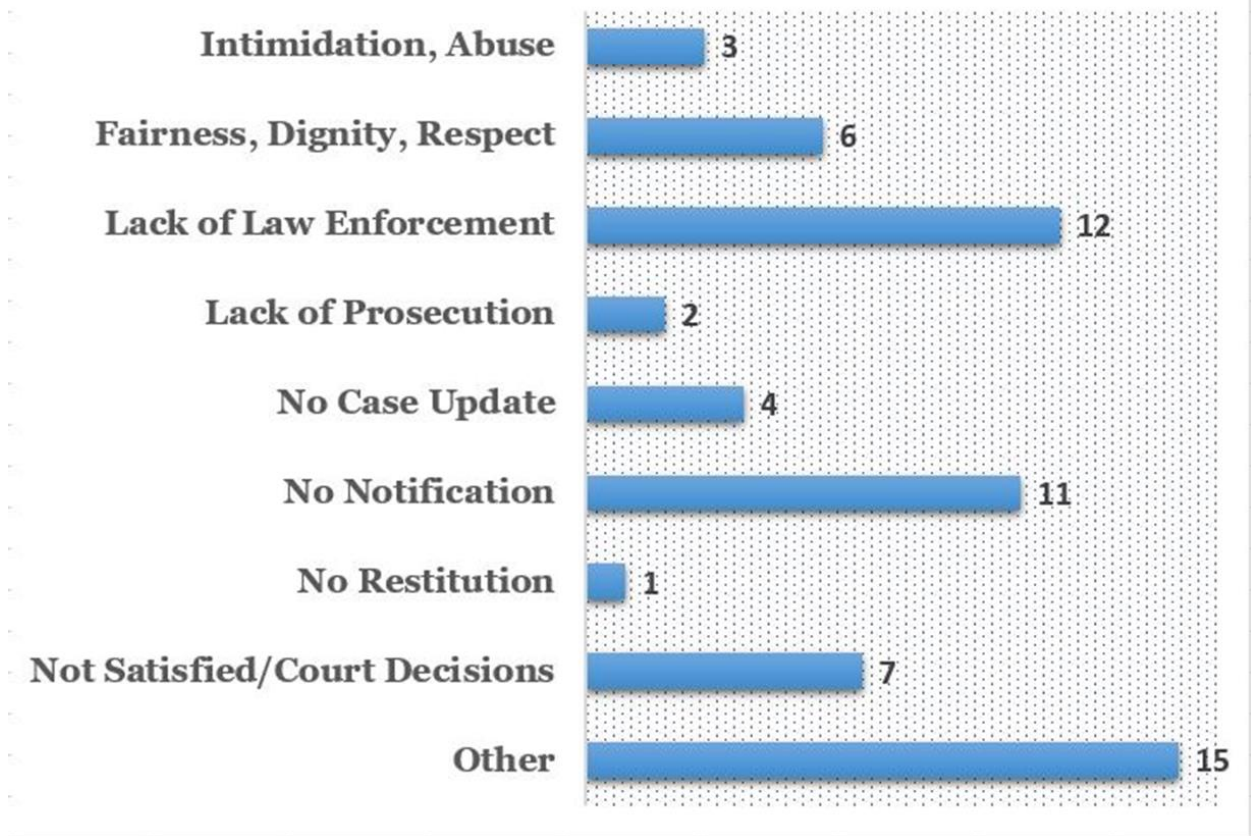
“Other” indicates either a general request from the criminal justice / victim services community about “all crimes,” or from someone who has a civil issue or who is not referring to a crime.

ALLEGATIONS OF VICTIMS' RIGHTS VIOLATIONS: FORMAL COMPLAINTS

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

Police	<ul style="list-style-type: none">• All Sheriffs' Departments• All City and Town Police Departments• All Campus Public Safety/Police Departments• SC Highway Patrol
Solicitors	<ul style="list-style-type: none">• All Solicitors and their Staff• All City Prosecutors and their Staff
Courts	<ul style="list-style-type: none">• All judges and staff in Circuit and Family Court• Magistrates and Municipal Court
Detention Centers / Jails	<ul style="list-style-type: none">• All Detention Center Staff charged with notifying crime victims about offenders' releases / transfers / escapes
State Agencies	<ul style="list-style-type: none">• Department of Corrections (SCDC), Probation, Parole and Pardon Services (DPPPS), SLED, Department of Crime Victim Compensation (DCVC), Department of Juvenile Justice (DJJ), Juvenile Arbitration Board, Attorney General's Office
Other	<ul style="list-style-type: none">• All Non-Profit Agencies that provide victim services; therapists, attorneys, etc.

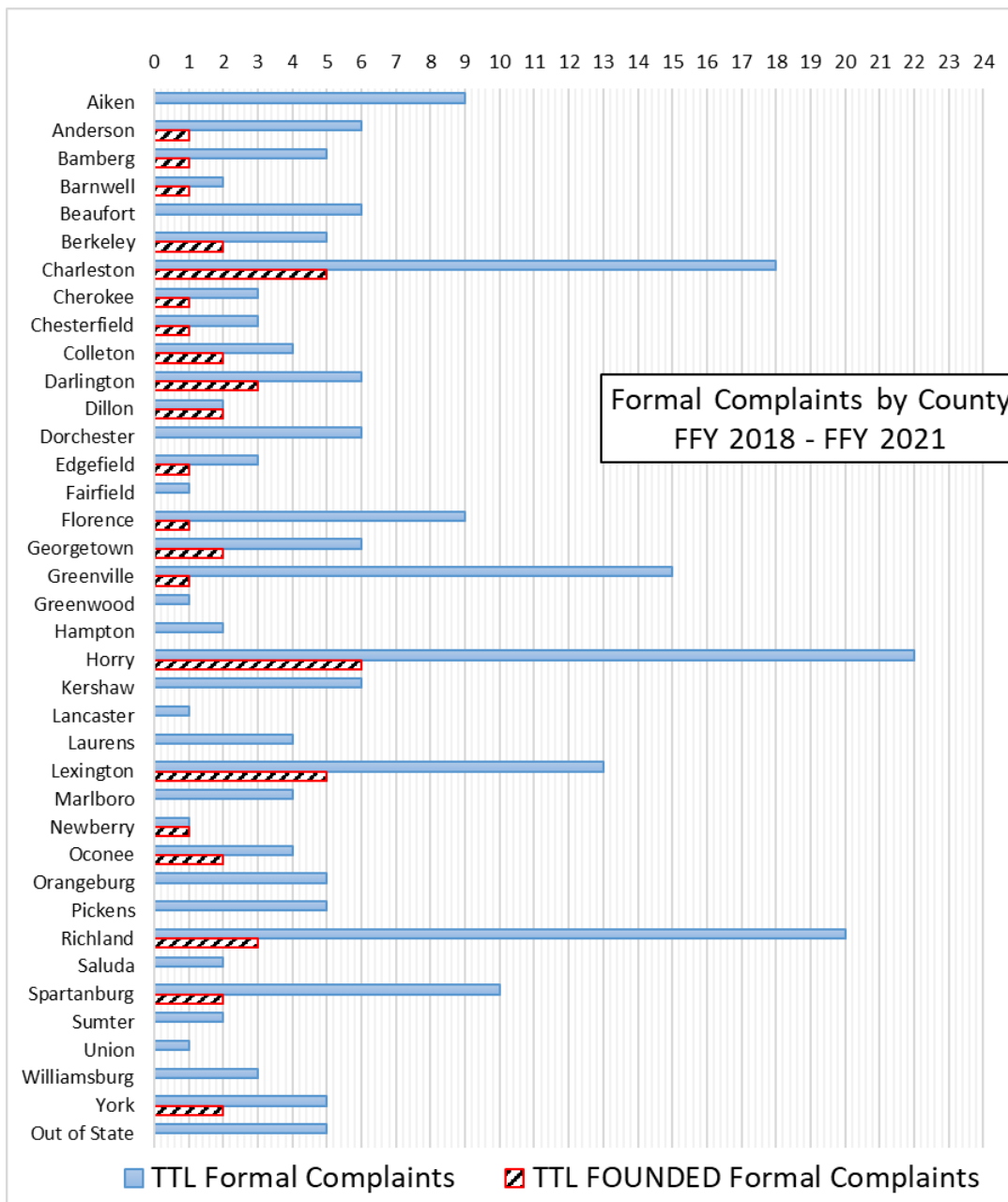
ALLEGED VICTIMS' RIGHTS VIOLATIONS
59 COMPLAINTS SUBMITTED
61 SEPARATE INQUIRIES



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

The guidelines for each of the Dispositions are as follows:

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



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

Cases submitted online from people other than S.C. 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: Grand Larceny

Complaint: A bond hearing was held, but victim was not notified, present or heard.

Subject of Complaint: Law enforcement, Jail, Court.

Scenario: A victim's work trailer and tools were stolen. When law enforcement identified the suspect, his attorney arranged for him to turn himself in and judge held a "closed door bond hearing." Law enforcement did not know about this arrangement and the victim was not notified.

CVO Inquiry: We reviewed the jail's procedure for notifying victims and discovered that the Victim Notification Form was not filed with the warrant. Therefore, the jail did not have any victim information. Law enforcement did not arrest offender, so their process for notifying the victim of the arrest was circumvented. We checked with law enforcement who verified they were unaware of the bond hearing. The judge admitted they did not request information about whether or not the victim had been notified.

Relevant Laws:

Jails and Detention Centers

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

- (3) be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present;
- (4) be reasonably informed of and be allowed to submit either a written or oral statement at all hearings affecting bond or bail;

Law Enforcement

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;

S.C. Code §16-3-1525. Arrest or detention of person accused of committing offense; notification to victims; protection of witnesses; notification of bond proceedings; juvenile detention hearings.

(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, including a mental health facility, having physical custody of the defendant, the name, mailing address, and telephone number of each victim. If the person is transferred to another facility, this information immediately must be transmitted to the receiving facility. The names, addresses, and telephone numbers of victims and witnesses contained in the files of a jail, prison, or detention or holding facility, including a mental health facility, are confidential and must not be disclosed directly or indirectly, except as necessary to provide notification.

(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;

The Court

S.C. Code § 16 3 1525 (H) In cases in which a defendant has bond set by a summary court judge:

(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; and

(3) the summary court judge must impose bond conditions which are sufficient to protect a victim from harassment or intimidation by the defendant or persons acting on the defendant's behalf.

S.C. Code § 16 3 1535 (D) The summary court judge reasonably must attempt to notify each victim related to the case of each hearing, trial, or other proceeding.

CONCLUSION: The provision of victims' statutory and constitutional rights can have a significant impact on a victim's perceptions of, and satisfaction with, the criminal justice system. For some

victims, the deprivation of a right exacerbates the feelings of helplessness he or she already feels as a result of the crime. It is in the best interest of the victim and the overall justice system that public officials make sincere and meaningful efforts to comply with their constitutional and statutory duties to victims of crime.

RECOMMENDATIONS AND RESULTS:

The jail amended their forms to specifically include that both the victim AND the warrant officer are notified when the offender is booked into the jail. They also added a checklist that includes victim notification of an offender's release. This form will ensure that every time the jail staff books or releases an offender, they will be obligated to complete these steps to fill out this form in its entirety. If the file happens to be missing the Victim Notification Form, the jailer will know to follow up with the appropriate personnel to ensure proper notification is made to all victims. The updated procedures hopefully will serve to correct any oversight that might arise through human error, such as what occurred in this case.

The complaint against the Jail was **UNFOUNDED**.

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

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

Formal Case Summary 2

Crime: DUI with Great Bodily Injury

Complaint: The father of victim complained that an offender's sentence was incorrect.

Subject of Complaint: Detention Center, Courts

Scenario: The caller was the father of a police officer who was severely injured and disabled by a crash caused by a drunk driver. The driver's passenger was killed the crash. Four years later, the driver pled guilty and was sentenced to 15 years in prison with credit for "time served." Six months after the conviction, the victim was notified about a parole hearing. The victim alleged the offender actually had only spent three days in jail but got credit for serving four years and six months. The officer's father had since attended three parole hearings while he searched for help to correct the sentence. Now, the driver was up for release a mere four years after conviction.

CVO Inquiry: CVO checked with the Clerk's office and determined the offender received a bond seven days after their arrest and was not in jail. The victim told us he had reviewed the offender's Social Media platforms and had seen posts from the offender within ten days after the arrest, which CVO verified.

CVO then contacted the South Carolina Department of Corrections (SCDC) and received a copy of the original "Jail Time Report" they received from the County Jail.

It took us 6 days to fix this problem. The Jail Time Report incorrectly reflected that the offender served 1,373 days in jail rather than the 7 days she spent in the hospital and then was released on bond.

CONCLUSION: CVO concluded the Jail had incorrectly counted the offender's time spent behind bars. CVO contacted the newly-elected Sheriff who looked into the situation and verified the error. The County promptly corrected the Jail Time Report and forwarded it to SCDC, who corrected the offender's release date.

Outcome: We spoke to the newly-elected Sheriff about this grievous error, and also spoke to the newly appointed Jail Director who assured us that the person who supervised the jail during the time this error occurred is no longer in that position. We also contacted the Director of Victim Services at SCDC to discuss the case with her to insure she is aware of the error that occurred.

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

Formal Case Summary 3

Crime: Murder, Attempted Murder

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

Subject of Complaint: Solicitor's Office

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

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

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

South Carolina Crime Victim Ombudsman

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

SECTION 16-3-1610. Definitions.

As used in this article:

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

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

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

(B) The Crime Victim Ombudsman shall:

- (1) refer crime victims to the appropriate element of the criminal and juvenile justice systems or victim assistance programs, or both, when services are requested by crime victims or are necessary as determined by the ombudsman;
- (2) act as a liaison between elements of the criminal and juvenile justice systems, victim assistance programs, and crime victims when the need for liaison services is recognized by the ombudsman; and
- (3) review and attempt to resolve complaints against elements of the criminal and juvenile justice systems or victim assistance programs, or both, made to the ombudsman by victims of criminal activity within the state's jurisdiction.

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

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

In carrying out the inquiry, the ombudsman is authorized to request and receive information and documents from the complainant, elements of the criminal and juvenile justice systems, and victim assistance programs that are pertinent to the inquiry. Following each inquiry, the ombudsman shall issue a report verbally or in

writing to the complainant and the persons or agencies that are the object of the complaint and recommendations that in the ombudsman's opinion will assist all parties. The persons or agencies that are the subject of the complaint shall respond, within a reasonable time, to the ombudsman regarding actions taken, if any, as a result of the ombudsman's report and recommendations.

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

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

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

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

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

SECTION 16-3-1660. Grounds for dismissal.

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

SECTION 16-3-1670. Purpose.

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

SECTION 16-3-1680. Recommendation of regulations.

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

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

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

CONSTITUTION OF THE STATE OF SOUTH CAROLINA

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.

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

**“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.”**

RONALD REGAN



Attorney General Alan M. Wilson
State of South Carolina

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