

2021 - 2022 Annual Report

Commissioner for Victims' Rights



Government of South Australia
Victims of Crime SA

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30 September 2022 presented to Attorney-General

To:

Hon Kyam Maher

Minister for Aboriginal Affairs

Attorney-General

Minister for Industrial Relations and Public Sector

This annual report will be presented to Parliament to meet the statutory reporting requirements of section 16F of the Victims of Crime Act 2001 and the requirements of Premier and Cabinet Circular PC013 Annual Reporting.

This report is verified to be accurate for the purposes of annual reporting to the Parliament of South Australia.

Submitted on behalf of the Commissioner for Victims' Rights by:

Bronwyn Killmier

Commissioner for Victims' Rights

Date 30 September 2022

Signature

A handwritten signature in cursive script, appearing to read 'B Killmier', written in black ink.

From the Commissioner

2021 – 2022 was a busy year for Victims of Crime SA. My small team continued to work to deliver outcomes for many South Australian victims of crime, working both remotely when required and also in the office. Of course, working to assist victims is rewarding as well as challenging. I would like to acknowledge the others who work in this area, many who are also members of my consultative committee.

There have been more victims come to us this year for assistance. In the top 5 categories of our work, we received 3306 enquiries from victims, resulting in 11,510 follow up enquiries. We also provided information, advice and made submissions on behalf of victims in 65 individual parole matters, resulting in 1078 contacts and since November 2021, after changes to legislation, we have made submissions relating to 19 parole breaches with 152 contacts.

In addition, we have made Community Impact Statements in the District/Supreme Court sentencing phase and have provided independent legal funding for victims. There is more information about our work in this document.

Although we have been able to help many victims with their concerns, there are many issues that need change to benefit victims of crime in their interactions with the criminal justice system. For many victims of crime, this is their first interaction with the legal system.

The criminal justice system is complex and many victims do not know that they have rights, or what those rights are. For example, a victim may assume that when they report an offence, they will be kept informed about what is happening with their case. But in many cases they won't unless they specifically asked to be kept informed. The *Victims of Crime Act 2001* is an opt-in system and not an opt-out system. This should be changed so that victims are kept informed. Not being kept informed or consulted about what happens to their cases is one of the most common complaints made to my office.

Unfortunately, the plight of victims in the system does not always receive the attention it deserves. Until you have been a victim, you don't understand the impact the crime has on you or others and the processes associated with the crime. In some cases, dealing with the criminal justice process further traumatises the victims. We have seen victims have their cases withdrawn or not prosecuted late in their journey when they do not agree with this; disadvantaged because of the delay in trials or continued changes to their court dates; disadvantaged because of changes to the charges that proceed in court, sometimes leading to their victim impact statement not being submitted and their only chance at telling the court and the offender of the effect on them taken away.

In a system where the criminal justice system is an argument between the state and the defendant, and the victim is only seen as a witness or a bystander, this disadvantage will continue. Victims' Rights are not guaranteed in the Act. They are not enforceable and some only need to be provided as far as is practicable with regard to the other obligations binding on them. The only remedy is a request for a formal apology if they are breached and the agency

does not deal appropriately with any grievance on behalf of the victim. If an apology is not provided, this can be alluded to in my annual report to Parliament.

All agencies involved in the criminal justice system have policies and processes that recognise the Declaration of principles governing treatment of victims but have to work within the complex system where victims are still seen as not part of the adversarial system. Victims should be central to the criminal justice process. A victim-centered approach seeks to minimize re-traumatization associated with the criminal justice process by providing support, empowering victims as engaged participants in the process, and providing victims an opportunity to play a role in the process to seek justice.

There have been changes to legislation that have assisted victims, but more needs to be done. The Communication Partner program - meant to help our most vulnerable victims access justice - has been ineffective, unlike interstate experience, and needs to be re-evaluated and funded.

Data gathered on victims of crime counselling indicates that they are one of the most traumatised groups in South Australia. There is a need to examine this data to determine what is needed to help with early intervention for all victims. This funding was cut when the tender was previously developed, and there is a need to re-examine what is required - based on the evidence gathered - and fund it appropriately, before the next tender is advertised. This is what the Victims of Crime Fund is for.

Court delays remain a problem for victims. Justice delayed is justice denied. A victim should not have to wait four years to have their matter heard in the higher courts, particularly if they are vulnerable. Of course, COVID-19 had some effect on trials, but there was a delay prior to this. It is a difficult issue but there are concerns that forthcoming major trials will adversely impact further on victims. Understandably I receive many complaints about the delay for victims and there is little remedy available.

This year, we continued to make submissions for changes, including about changes to dangerous driving laws, concealment of bodies, coercive control, funding for clean-up of suicide matters and the age of criminal liability. We also commented on numerous legislative proposals, assisted in securing ongoing funding for the Road Trauma Support team and provided independent legal funding for victims.

This coming year, we intend to make submissions on what changes are required to the *Victims of Crime Act 2001* – this would include a simplified charter of victims' rights.

We will continue with our advocacy in the coming year to make changes for the improvement of the criminal justice system for victims and access to services for victims.

Bronwyn Killmier APM
Commissioner for Victims' Rights
M.St (Cantab), MBA, Grad Dip Ed, BA

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Overview: about the agency

Our strategic focus

Our purpose

The Commissioner for Victims' Rights is an independent statutory officer with responsibilities under the *Victims of Crime Act 2001*. The Commissioner helps victims of crime in South Australia in their dealings with the criminal justice system, and ensures victims are treated fairly and respectfully with their rights acknowledged and observed by public agencies and officials.

The Commissioner provides information, advice and support to South Australians who are harmed, and their families and friends, to deal with the physical, emotional and financial impact of crime.

The Commissioner also participates in certain criminal proceedings and consults on victims' grievances.

The Commissioner monitors laws and policy for the safety, fairness and justice for victims of crime in South Australia and leads the Victims of Crime South Australia (VOCSA) office.

Our vision

Victims in South Australia are treated fairly and respectfully with their rights acknowledged and observed by public agencies and officials.

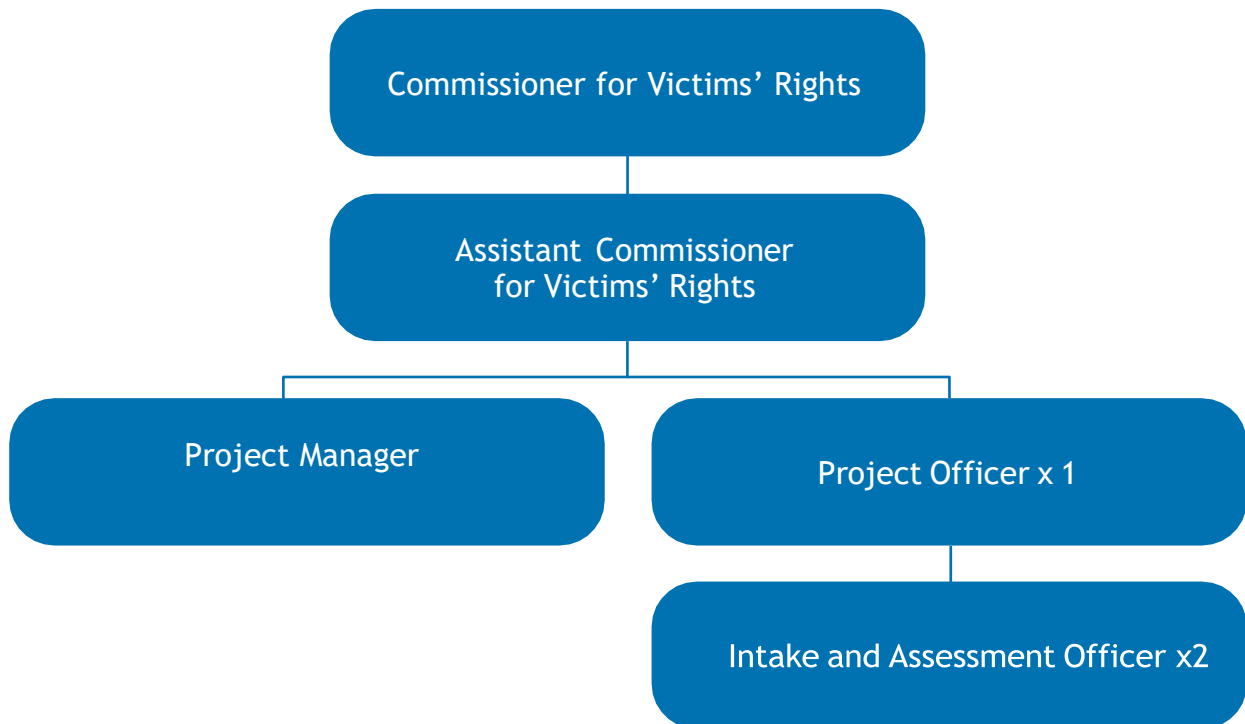
Our values

VOCSA services are responsive, inclusive and collaborative.

Our functions, objectives and deliverables

- to give statutory recognition to victims of crime and the harm that they suffer from criminal offending
- to establish principles governing how victims of crime are to be treated by public agencies and officials
- to help victims of crime recover from the effects of criminal offending and to advance their welfare in other ways
- to marshal available government resources so they can be applied for the benefit of victims in the most efficient and effective way
- to assist victims in their dealings with prosecution authorities and other government agencies
- to monitor and review the effect of the law and of court practices and procedures on victims
- to carry out any other functions assigned to the Commissioner under the *Victims of Crime Act 2001*, or under other Act.

Our organisational structure



Legislation monitored by the agency

Victims of Crime Act 2001

The agency's objectives and performance

Policy, legislation and collaboration

A key function for the Commissioner for Victims' Rights is to identify gaps in service delivery, legislation, rights or access to justice in relation to victims of crime. The Commissioner has a responsibility to marshal available government and non-government resources so that they can be applied for the benefit of victims in the most efficient and effective way.

The Commissioner continues to collaborate with SAPOL to trial a streamlined information sharing process so that more timely responses to victims can be made and efficiencies realised for SAPOL and VOCSA without any compromise to service delivery. This has resulted in fewer follow up contacts required and a more timely service for victims.

The Commissioner collaborates and liaises across government and non-government agencies, and with communities, on policy and service delivery - this has included:

Attorney General's Department – State and Federal	Commissioner for Children and Young people
Department for Correctional Services	Public Advocate
South Australian Housing Trust	Child Protection Services
Office for Women	Courts Administration
Child Protection Services	SAPOL
Office of the Director of Public Prosecutions	Relationships Australia South Australia
Forensic Mental Health	Victim Support Service

The Commissioner has made submissions on proposed legislation and policy that could impact on victims. This has included:

Age of criminal responsibility	Financing suicide clean-ups
Child sex offenders registration regulations 2007	Evidence Regulations 2007
CLCA (Human Remains) amendment Bill 2021	Statutes Amendment (Attorney-General's
Draft Forfeiture Bill 2021	Portfolio and Other Justice Measures) Bill 2021
Powers of Attorney Bill	Statutes Amendment (Child Sexual Abuse) Bill 2021
Concealment of bodies	Statutes Amendment (Stealth and Consent) Bill 2021
Financing funerals for unidentified human remains	

The Commissioner is a member of a national working group examining coercive control principles, and participated in the Policing and Justice Panel as part of the National Summit on Women's Safety. In addition, she provided information to the Mansfield Review into Safework SA's investigation of the death of Gayle Woodford and the Select Committee on Damage, Harm or adverse outcomes resulting from ICAC investigations (SCICAC).

The Commissioner has identified systemic issues impacting on victims that need to be addressed long term. The Commissioner will continue to collaborate and consult with agencies and victims to realise changes to practices, policy and legislation that will mitigate the impact of crime on victims.

National Victims of Crime Working Group

The Commissioner has attended the National Victims of Crime Working Group (NVOCWG) led by the Western Australian Commissioner.

The NVOCWG was working towards a proposed National Victims of Crime Day to be held in 2021 to focus community attention on victim issues. South Australia was part of a working group and became the lead on this project.

South Australia held their first Victims' Day on September 16, 2021. In the lead up to victims' day, with the help of victim advocates and agencies, we were able to film short videos about the services provided for victims and post these on our website, so that they were accessible to everyone. We also arranged various media stories, including about the concealment of bodies, that prompted changes to legislation. We were able to hold a small morning tea function, respecting covid restrictions, where the Attorney-General spoke to victims and agencies who work to assist victims.

The working group also discusses relevant legislative amendments, innovations and processes impacting on victims.

Commissioner for Victims' Rights Consultative Committee

The Commissioner for Victims' Rights Consultative Committee (CVRCC) was formed in February 2019 to invigorate and enhance innovative ways of delivering meaningful services for victims.

Meetings are held every 6 weeks but, due to COVID-19 restrictions, meetings have either been deferred or held online. The CVRCC members include victims with lived experience, victim support group representatives and government and non-government agencies.

Some of the topics discussed by the CVRCC include assistance with victim impact statements, court support, information provisions, changes required in relation to victim impact statements, victims' day, assisting vulnerable victims to make parole submissions, and discussion and updates on legislation that formed the basis for submissions by the Commissioner on behalf of victims.

Collaboration on policy and service delivery

The Commissioner has collaborated and liaised with many agencies, groups and committees in 2020-2021, including:

Adelaide University	Parole Board
AGD - Policy and Community	Politicians
Legal and Legislative Services, Projects and Technology	Relationships Australia SA
Australian Federal Police	Road Trauma Support Team (RTST)
Carly Ryan Foundation	South Australian Law Reform Institute
Child Protection Services	South Australia Police
Commissioner for Children and Young People	Statutory Authorities
Commonwealth Attorney-General	Victim Support Service
Courts Administration Authority	Witness Assistance Scheme (WAS) ODPP
Crown Solicitor Office (civil)	Women's Domestic Violence Court Assistance Service
Department for Correctional Services - Victim Services Unit	Women's Safety Service SA
Flinders University	Youth Court Stakeholders
Forensic Mental Health	Youth Justice
Homicide Victim Support Group (HVSG)	Youth Women's Safety and Wellbeing
Lawyers specialising in compensation	Division of the Women's and Children's Health Network.
Media	
National Victims of Crime Working Group	
Office of the Director of Public Prosecutions	

Information, education and community engagement

VOCSA has an ongoing and evolving marketing and engagement strategy to promote the rights of victims, and the assistance that is available for victims and to raise community awareness in victim issues. The Commissioner continues to examine innovative ways for keeping victims informed through the criminal justice system.

VOCSA had intended to visit field days again this year, but some were cancelled due to COVID-19. The Commissioner attended the Yorke Peninsula Field Days at Pasqueville. It is hoped to be able to attend more regional days in the next year.

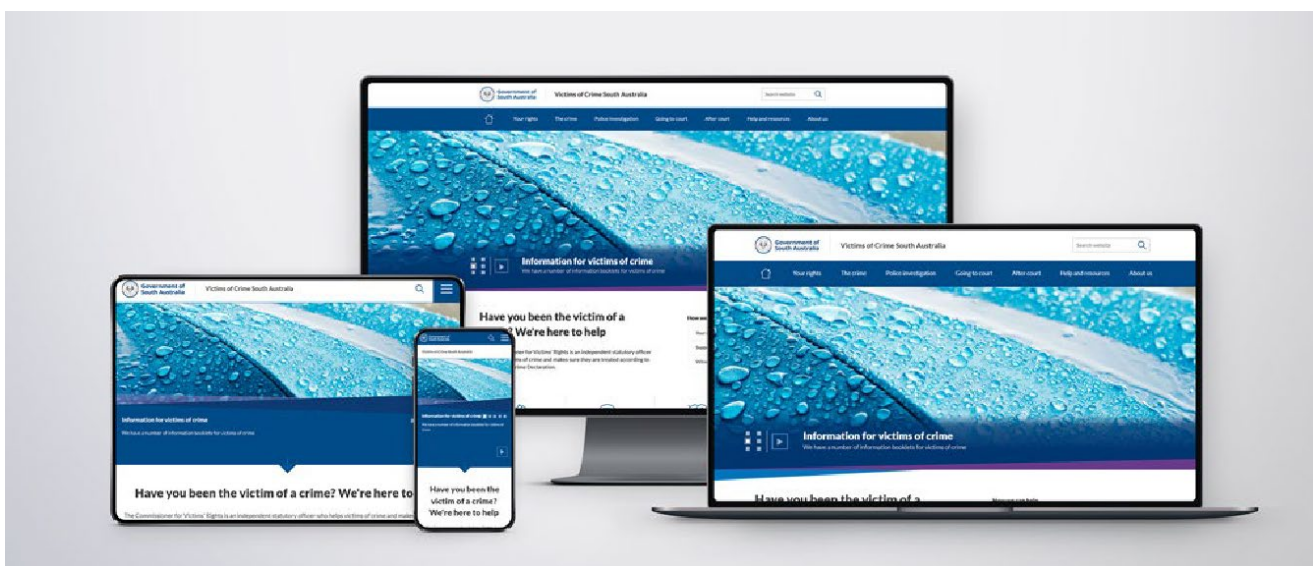
Website

The VOCSA website (www.voc.sa.gov.au) provides information for victims on the Declaration of principles governing treatment of victims, as outlined in the *Victims of Crime Act 2001*. These principles should govern the way victims are dealt with by public agencies and officials.

The criminal justice system can be complex and confusing. The information on the website can help victims understand what to expect, from reporting a crime through to the outcome of the court process and beyond. It also provides advice of where support can be obtained, amongst other information.

In line with a strengthened coordination role, a new website was launched in October 2020. The website is clear and accessible, enabling victims to access information quickly and providing clear information to support them. In 2021, the office name was changed to “Victims of Crime South Australia” (VOCSA) to reflect that the priority is on victims and not the Commissioner. The change of name has made it easier for victims to find our services and emphasises our commitment to victims.

The new website enabled greater flexibility, with videos relating to Victims’ Day and the services available able to be uploaded and editable forms able to be accessed – this enabled improvements in access to victim impact statements and court support requests.



Publications

VOCSA publications are used not only by victims, but also by many government and non-government agencies who provide support and services to victims.

Our publications continue to be rewritten and updated to be more concise and accessible. We are consulting with people with lived experience and experts in doing so.

As trends are identified by victim issues, we produce or update our publications. We had previously identified and introduced more appropriate ways to manage our publications so that there is less wastage and they are able to be updated as required. We are currently working on an information booklet relating to those cases involving mental impairment. All our publications can be downloaded from the website and are also available in hardcopy.



Media

The Commissioner has engaged with media and provided opinion and discussed a wide range of victim topics through radio, television and online and print media, raising community awareness of victim issues.

Social Media

VOCSA is on Twitter, with the following statistics for the year.

The number of times someone engaged with the tweet (eg clicked on it, retweeted, liked, etc)



110
likes



537
engagements



109
tweets
published



30,279
Impressions

This is the number of times a tweet appeared in timelines across Twitter



36
retweets



3
replies

The three top tweets were

Date	Topic	Impressions	Engagements
13/9/21	Victims of Crime @VictimofCrimeSA You have a right to information. As a victim of crime, you are entitled to a lot of information - you just have to ask for it. Learn more about what information you can access: https://bit.ly/3leYycl #VictimsDaySA #victimsofcrime #SouthAustralia #victimsrights	2379	32
3/4/22	Victims of Crime @VictimofCrimeSA This is important recognition that victims need access to services that can assist them as they seek to recover from family and domestic abuse. https://twitter.com/Zahra_Aust/status/1510587890291515398 ...	2320	19
3/11/21	Victims of Crime @VictimofCrimeSA Yesterday there was a collective sigh of relief when #CleoSmith was found alive and well but let's not forget all the families and friends of those who are still #missing . They too need community support and understanding as they wait and hope	1149	7



Training

VOCSA has developed and conducted a number of training and awareness courses to improve services for victims. As well as providing training and awareness in partnership with SAPOL for victim contact officers, prosecution, child and family violence investigators, detectives and recruits, we have also given presentations to other professionals, including the crown solicitors who manage compensation. We have also presented at university courses.

VOCSA policy and procedures

The Commissioner has developed, implemented and maintained policies and procedures that enhance the support given to victims of crime in South Australia. The policies and procedures are adhered to by staff to ensure consistent decision making. These improvements in business processes have also increased operational efficiency, streamlined administration practices and improved the triage, assessment and decision-making processes for victims. This has included a more structured and rigorous financial management process.

Case management system

Office processes and procedures have been fully analysed and documented to enable a tender to be undertaken in the new financial year for a case management system. This will bring benefits for victims by improving administrative efficiencies and digital record keeping, as well as increasing data accuracy and streamlining processes to assist victims. Data will enable trends to be analysed to identify gaps in victim services so that the Commissioner can advocate for improvements for victims.

After a successful tender process, the case management system will now be designed and implemented within the 2022 – 2023 financial year.

Staffing and succession planning

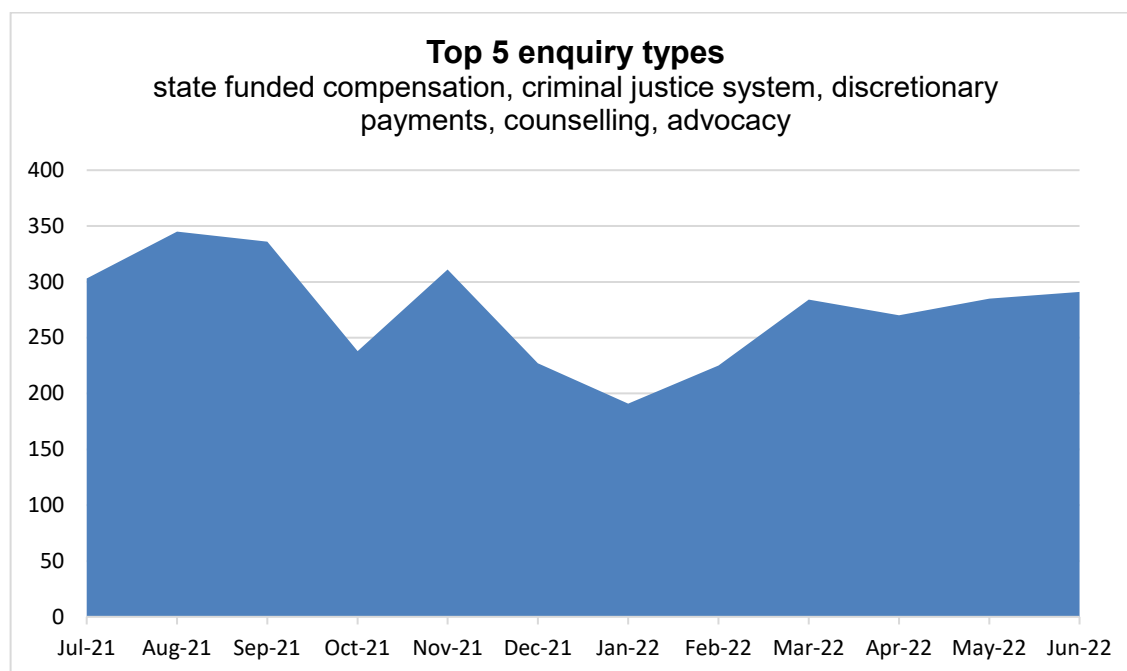
The Commissioner for Victims' Rights continues to collect meaningful data and undertake an assessment of VOCSA workload. This has assisted in determining staffing needs for efficient and effective management of workload, and meeting customer service benchmarks.

Working in the office assisting victims is a rewarding but often emotionally draining job, and some people find this challenging. I am fortunate to have had people working in the office on contracts who have been flexible, resilient and empathetic.

Victim assistance

The Commissioner for Victims' Rights upholds the principles governing how victims of crime are to be treated by public agencies and officials. VOCSA also helps victims recover from the physical and psychological effects of criminal offending and provides resources to benefit victims in the most efficient and effective way.

During the year, VOCSA dealt with:



The data above is only a snapshot of the work undertaken by the office in the top 5 victim enquiries:

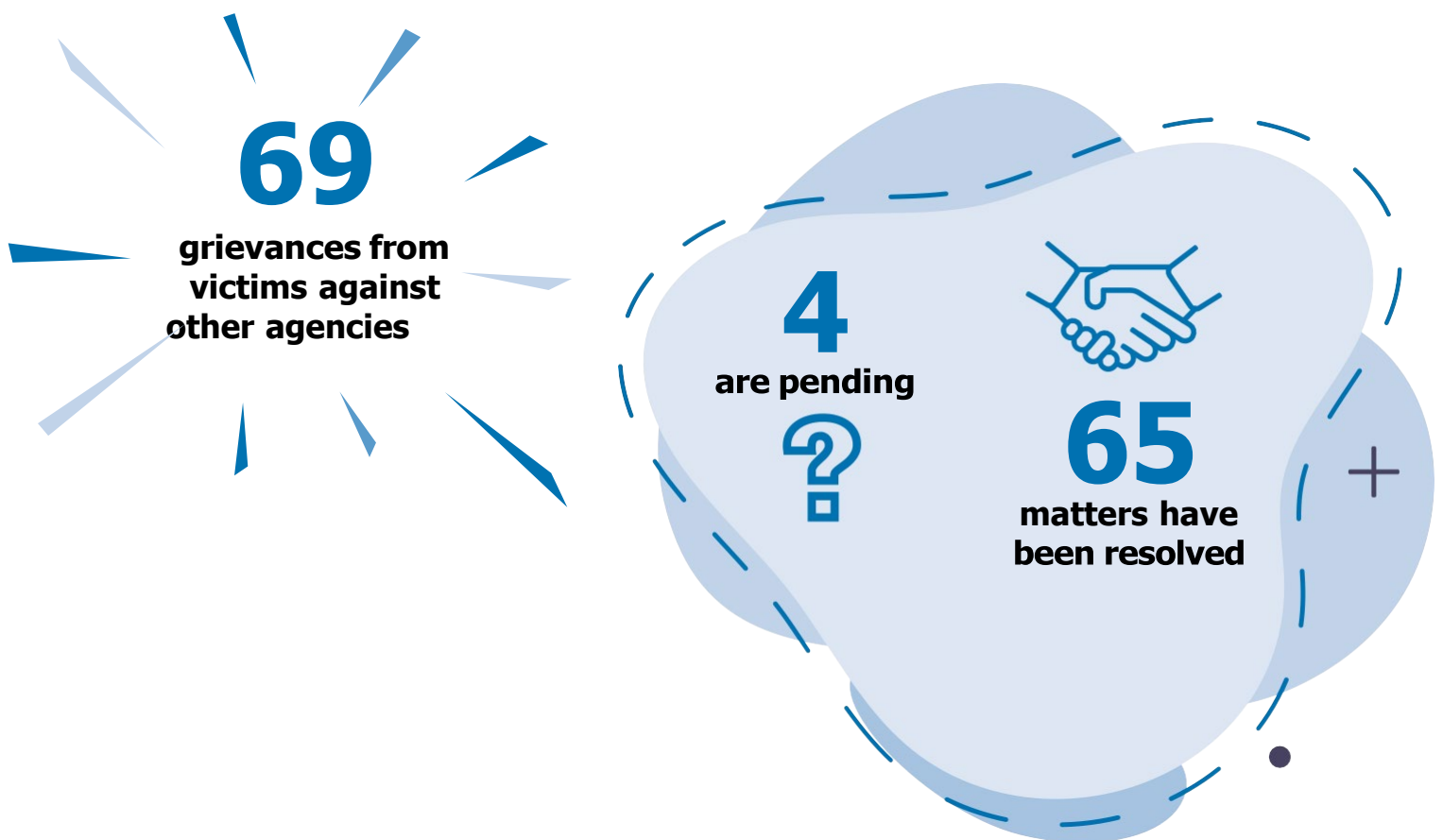
- state funded compensation
- discretionary funding
- criminal justice sector enquiry
- advocacy
- counselling.

The office also undertakes a significant amount of work on a regular basis that is not captured by the data above. This includes dealing with grievances, making parole submissions, community impact statements, updating publications, commenting on legislation, securing court documents for victims, dealing with the media, arranging court support and victim impact statements.

Helping victims in their dealings with prosecution authorities and other government agencies and officials

Some people have a complaint about how they have been treated or supported as a victim of crime. If the victim is not satisfied with how an agency has resolved their complaint, they can contact the Commissioner who assists victims dealing with public authorities and the justice system and consults regarding the treatment of victims to ensure that the Declaration of Principles Governing Treatment of Victims has not been violated.

In 2021 - 2022 VOCSA received:



Most grievance matters relate to victims not being kept informed, not being consulted if charges are downgraded, withdrawn or not proceeded with.

- VOCSA has liaised with many agencies to resolve victim grievances including:
 - SafeWork SA
 - South Australian Housing Authority (SAHA)
 - SAPOL
 - Office of the Director of Public Prosecutions
 - Crown Solicitor's Office
 - Department for Correctional Services
-

- Courts Administration Authority
- Members of Parliament
- Attorney-General's Department
- Coroner's Court
- some media agencies.

It was not necessary for the Commissioner to request apologies under sections 16(A)(2) and 16(A)(4) as all complaints were resolved at the agency level.

Advocate on behalf of victims

Some victims require assistance in navigating the criminal justice system and interacting with other agencies. The Commissioner can consult with agencies and officials, and advocate on behalf of victims.

In 2021 - 2022 the Commissioner for Victims' Rights received 296 requests from victims seeking advocacy. 293 matters have been resolved and 3 are pending.

Provide discretionary funding to benefit victims and to assist in the recovery from the impact of crime

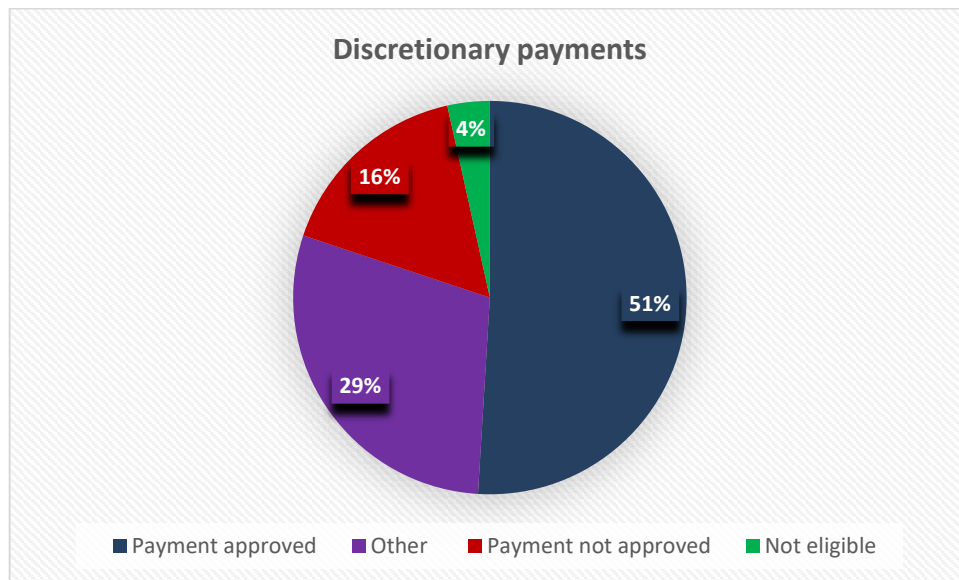
Each discretionary payment application is assessed before a determination is made by the Commissioner and includes consultation with SAPOL and other agencies.

Of those applications that were approved, below is a snapshot of some of the types of assistance provided to victims:

- relocation to enable domestic violence and other victims to stay safe
- payment for some emergency medical costs
- additional security to increase the safety of victims of crime in their homes
- payment of funerals for victims who have died as a result of murder.

For the 2021 – 2022 period there have been 521 applications to the Commissioner for Victims' Rights for discretionary payments, of which 264 were approved.

The remaining applications were either not approved, funded from a more appropriate source or were not eligible.



NB: Other includes applications where assistance is no longer required by the victim, or VOCSA are unable to contact the victim and have had no further contact from the victim regarding assistance.



521

**applications to
the Commissioner
for Victims'
Rights for
discretionary
payments**

264

**applications were
approved**



Court Support

During the 2021-22 financial year, Victims of Crime SA continued to partner with the Victim Support Service to establish a new service - the Court Support Program.

Victims of Crime SA made significant improvements in the training of court support volunteers, including ensuring appropriate current national police checks and working with children checks were undertaken. Significant investment was made into developing a process that was easy for victims and other stakeholders to use to access court support in the district and supreme courts. This included developing an online application form to enable anyone to request support. In addition, VOCSA enabled SA based victims to attend court virtually in other states if required. VOCSA also ensured court support volunteers were able to be easily identified by those in the court and provided information on the website to advise and inform victims and stakeholders. VOCSA developed and provided professional training both in person and virtually to volunteers.

The development of a more professional service for victims has resulted in a process and program that is benefiting victims. As an election promise by the current Government, the Victim Support Service are now funded to be responsible for the full delivery of the program from the 2022-23 financial year.

Assist victims in making submissions to the parole board

When a life-sentenced prisoner lodges an application for release on parole, the Commissioner for Victims' Rights makes a submission to the Parole Board representing the co-victims or those affected.

VOCSA takes all reasonable steps to contact any co-victims to obtain their views so that their comments can be collated into the submission.

All submissions must meet strict timelines to be considered by the Parole Board. Following the Parole Board determination, all co-victims must be contacted and advised of the outcome and any conditions imposed.

VOCSA also frequently has contact with SAPOL, DCS Victim Services Unit and the Parole Board in relation to the parole submissions.

For the 2021 - 2022 period, there have been 1078 contacts to co-victims and agencies by the VOCSA office in relation to 65 parole matters for life-sentenced prisoners.

In addition, since November 2021, with the advent of legislation that enabled the Commissioner to make submissions on behalf of co-victims regarding parole breach matters, there have been 19 matters, with 152 contacts made. This is a valuable voice for victims, but has increased the workload on the office.

Assist victims to prepare victim impact statements

VOCSA has responsibility for coordinating assistance for victim impact statements. Writing a victim impact statement is one of the few opportunities victims have to participate in criminal proceedings and victims often describe this as empowering. It is therefore the philosophy of VOCSA to support victims and increase their capacity to write their own statements. Information and support is provided to victims to enable them to write their own statement.

Where a victim is vulnerable and requires additional support VOCSA will triage the request. Some victims have been referred to agencies already engaged with the victim whilst some have been assisted by VOCSA staff who can provide the appropriate support and guidance for those with complex communication needs. At times the use of an interpreter has been required and funded by VOCSA.

Assist victims by preparing community impact statements

The Commissioner has prepared a number of community impact statements this year.

The Commissioner has partnered with the Joint Anti Child Exploitation team (JACET) and the Carly Ryan Foundation to provide community impact statements (CIS) to the court during sentencing to give victims who may be unknown, a voice in the proceedings. They highlight the significant damage and that there are real victims behind these offences, often completed using the internet. The CIS are all evidence based and have been submitted for different child exploitation situations. The CIS not only represent the victims but also are instrumental in educating the judiciary, prosecution and others who report on them.

It is evident that the CIS are having some impact, as they are being referred to in sentencing comments by Judges.

The Commissioner, with the assistance of legal counsel, has been successful in having Commonwealth courts accept the CIS in proceedings. The Commissioner has raised the CIS with the National Working Group as there has been interest from around Australia regarding implementing this in other jurisdictions. At the moment, the Commissioner has a legislated right to submit them, but other jurisdictions do not.

In addition, the Commissioner has submitted other CIS relating to murder and other offences. These continue to be significant in assisting victims to have a voice in proceedings.

