

Law Enforcement and Criminal Justice Subcommittee Meeting
Wednesday, June 1, 2022

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South Carolina
House of Representatives



Legislative Oversight Committee

LAW ENFORCEMENT AND CRIMINAL JUSTICE SUBCOMMITTEE

The Honorable Chris Wooten, Chairman

The Honorable Kimberly O. Johnson

The Honorable Josiah Magnuson

The Honorable John R. McCravy, III

Wednesday, June 1, 2022

10:30 a.m.

Room 321, Blatt Building

Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming whenever technologically feasible.

AGENDA

- I. Approval of Subcommittee Meeting Minutes**
- II. Discussion of the study of the Attorney General's Office**
- III. Adjournment**

Chair Wm. Weston J. Newton

*First Vice-Chair:
Joseph H. Jefferson, Jr.*

Legislative Oversight Committee

*Kambrell H. Garvin
Rosalyn D. Henderson-Myers
Jeffrey E. "Jeff" Johnson
John R. McCravy, III
Adam M. Morgan
Melissa Lackey Oremus
Marvin R. Pendarvis
Tommy M. Stringer
Chris Wooten*



South Carolina House of Representatives

*Gil Gatch
William M. "Bill" Hixon
Kimberly O. Johnson
Josiah Magnuson
Timothy A. "Tim" McGinnis
Travis A. Moore
Russell L. Ott
Michael F. Rivers, Sr.
John Taliaferro (Jay) West, IV*

*Jennifer L. Dobson
Research Director*

*Cathy A. Greer
Administration
Coordinator*

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*Charles L. Appleby, IV
Legal Counsel*

*Lewis Carter
Research Analyst/Auditor*

*Riley E. McCullough
Research Analyst*

Law Enforcement and Criminal Subcommittee

**Wednesday, May 25, 2022
10:30 a.m.
Blatt Room 321**

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.7, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Law Enforcement and Criminal Justice Subcommittee meeting was called to order by Chair Chris Wooten on Wednesday, May 25, 2022, in Room 321 of the Blatt Building. All members are present for all or a portion of the meeting.

Approval of Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings.
- II. Representative Magnuson makes a motion to approve the meeting minutes from the April 26, 2022, meeting. A roll call vote was held, and the motion passed.

Rep. Magnuson's motion to approve the meeting minutes.	Yea	Nay	Not Voting
Rep. K. Johnson	✓		
Rep. McCravy	✓		
Rep. Magnuson	✓		
Rep. Wooten	✓		

Administration of Oath

- I. Chair Wooten reminds all others placed under oath at prior meetings that they remain under oath.
- II. Chair Wooten places the following agency personnel under oath:
 - a. David Jones, Assistant Attorney General (Opinions);
 - b. Dona Guffey, Assistant Deputy Attorney General (Tobacco); and
 - c. Keisha Brandyburg, Program Manager, Finance Department.

Discussion of Attorney General's Office

- I. Deputy Attorney General Barry Bernstein made brief remarks, including corrections to prior testimony about potential conflict of interest issues with the Crime Victim Services with Victim Advocacy Section.
- II. Assistant Attorney General Debbie Curtis made remarks about the Crime Victim Compensation Section.
- III. Assistant Attorney General David Jones made remarks about the Deputy Solicitor General Section.
- IV. Assistant Deputy Attorney General Dona Gufey made remarks about the Tobacco Section.

V. Subcommittee members ask questions relating to the following:

General

- a. Participation in legislative oversight process;

Crime Victim Compensation Section

- b. Vacancy in positions;
- c. Reimbursement for medical expenses to crime victims;
- d. Length of time to receive payment (including shortest and longest);
- e. Intake timeline;
- f. Review timeline;
- g. Number of review applications;
- h. Restitution process, notification, and stakeholder survey;
- i. Victim compensation online forms;
- j. Investment in technology;
- k. Garnishment of wages for restitution;

Solicitor General Section

- l. Indexing system for opinions;
- m. Public's access to opinions;
- n. "Requested by" section of each opinion on the websites;
- o. Topics on which opinions are requested;
- p. Agency's discretion not to answer requests for opinions;
- q. Unpublished advice;
- r. Speeches and press conferences about legal matters to help the public understand legal positions of the state;
- s. Examples of major litigation over the past five years;
- t. Discretion in filing amicus briefs;

Tobacco Section

- u. Enforcing provisions of the tobacco settlement agreement;
- v. National cigarette smoking rates;
- w. Restrictions on use of funds the state receives from settlement;
- x. Theory of liability in litigation;
- y. Agreement in perpetuity with state;
- z. Escrow accounts for non-participating cigarette manufacturers;
- aa. Associated criminal offenses;
- bb. Lawsuits filed in past five years;
- cc. Bankruptcy effects;
- dd. Vaping;

Adjournment

- I. There being no further business, the meeting is adjourned.

STUDY TIMELINE

The House Legislative Oversight Committee's (Committee) process for studying the Attorney General's Office (agency) includes actions by the full Committee; Law Enforcement and Criminal Justice Subcommittee (Subcommittee); the agency; and the public. Key dates and actions are listed below in Figure 1.

Legislative Oversight Committee Actions

- December 9, 2019 – Holds **Meeting #1** and prioritizes the agency for study
- January 15, 2020 – Provides the agency notice about the oversight process
- February 28 – April 1, 2020 - Solicits input about the agency in the form of an online public survey
- April 8, 2021 – Holds **Meeting #2** to receive public testimony about the agency

Law Enforcement and Criminal Justice Subcommittee Actions

- March 8, 2022 - Holds **Meeting #3** to discuss the agency's vision; mission; director responsibilities; organizational structure; history; and general information about finances and employees
- March 31, 2022 - Holds **Meeting #4** with the Healthcare and Regulations Subcommittee to discuss the hiring of in-house counsel and outside counsel as it relates to the State Accident Fund and all state agencies.
- April 26, 2022 - Holds **Meeting #5** to discuss the agency's Crime Victim Services division.
- May 25, 2022 - Holds **Meeting #6** to discussion the agency's Crime Victim Compensation Section, Solicitor General and Opinions Section, and Tobacco Division.
- June 1, 2022 - Holds **Meeting #7 (TODAY)** to discussion the agency's Crime Victim Grants Section, Civil Litigation Section, and Securities and Money Services Section.

Attorney General's Office

- March 31, 2015 - Submits its **Annual Restructuring and Seven-Year Plan Report**
- January 12, 2016 - Submits its **2016 Annual Restructuring Report**
- September 2016 - Submits its **2015-16 Accountability Report**
- September 2017 - Submits its **2016-17 Accountability Report**
- September 2018 - Submits its **2017-18 Accountability Report**
- September 2019 - Submits its **2018-19 Accountability Report**
- March 23, 2020 - Submits its **Program Evaluation Report**
- September 2020 - Submits its **2019-20 Accountability Report**
- April 2021 – Submits updated Program Evaluation Report
- December, 2019 - Present - Responds to Subcommittee's inquiries

Public's Actions

- February 28 – April 1, 2020 - Provides input about the agency via an **online public survey**
- Ongoing - Submits written comments on the Committee's webpage on the General Assembly's website (www.scstatehouse.gov)

Figure 1. Key dates in the study process.

AGENCY SNAPSHOT

Office of the Attorney General

Agency Mission

To serve the citizens of the State of South Carolina by providing legal representation of the highest quality to state government entities, by supporting the law enforcement communities and the legal and judicial branches through the legislative process, and by honorably and vigorously carrying out the constitutional and statutory responsibilities of the Attorney General.

Successes

Identified by the agency

- Increasing efficiency and outreach of services to victims after separate state Crime Victim entities were merged into a single division of the AG.
- Creating regularly occurring self-evaluation practices.
- Upgrading technology hardware and desktop software

History

- 1776 – The first State Constitution identifies the Attorney General (AG) and provides that the position is elected by the General Assembly
- 1868 – Revised State Constitution provides for a general election of the AG
- 1929 – State and US Supreme Courts affirm the authority of the AG as “the chief law enforcement officer”
- 1974 – Criminal Appeals section is formed
- 1978 – Post Conviction Relief actions primarily handled by the Office
- 1983 – Opinions section is created
- 1992 – AG statutorily responsible for litigation involving any state entity
- 1995 – Capital and Collateral Litigation section is formed
- 2004 – Consumer Protection and Antitrust Division is formed
- 2017 – South Carolina Crime Victim Services Division is created

Organizational Units

- Legal Services Division
- Opinions Division
- Criminal Litigation Division
- Criminal Prosecution Division
- Victim Services Division
- Administration Division
- Executive

Resources (FY 18-19)

Employees

275.2
authorized FTEs

Funding

\$78,758,364
appropriated and authorized

Challenges

Identified by the agency

Current:


- Providing competitive attorney salaries
- Retaining attorneys in the Post-Conviction Relief section
- Funding to implement the S.C. Anti-Money Laundering Act of 2016
- Obtaining a seat on the Commission on Prosecution Coordination

Emerging:

- Raising the salary of the Attorney General which has been stagnant for over 28 years and is less than half that of a circuit solicitor
- Lacking office space to accommodate the current size of the agency
- Aging case management system that needs updating

Figure 2. Snapshot of the agency's major organizational units, fiscal year 2018-19 resources (employees and funding), successes, and challenges.¹

AGENCY PRESENTATION – CRIME VICTIM GRANTS

The background features a large, faint, circular seal of the Office of the Attorney General, State of South Carolina. The seal contains the text "OFFICE OF THE ATTORNEY GENERAL" at the top and "STATE OF SOUTH CAROLINA" at the bottom, with a central emblem depicting a figure holding a scale and a sword.

CRIME VICTIM SERVICES

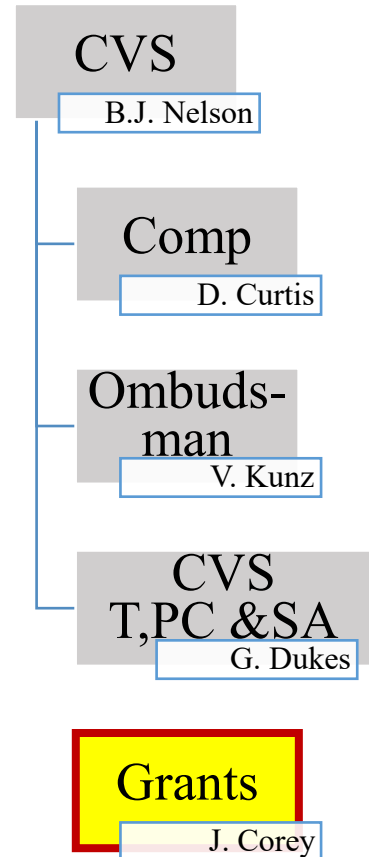
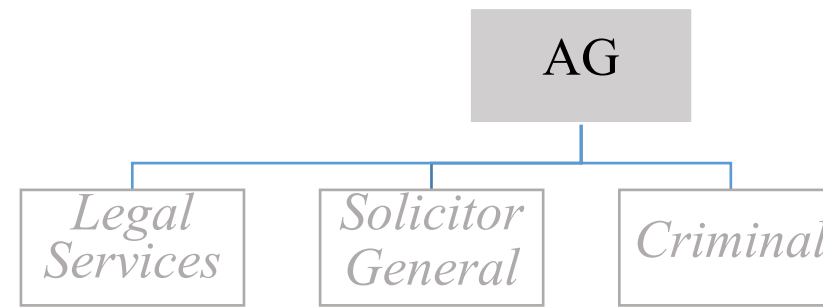
2022 Presentation for House Legislative Oversight Committee



Alan Wilson
Attorney General

B.J. Nelson
Director

In preparing the Deliverable Group presentations, some data provided in the original Program Evaluation Report has been corrected. The presentations will reference the corrected data, and the Program Evaluation Report will be updated once the Deliverable Group presentations are concluded.



Crime Victim Assistance Grants Section

B.J. Nelson

Grants

J. Corey



Sections of Crime Victim Services

Alan Wilson
Attorney General

B.J. Nelson
Director

Crime Victim Ombudsman

Provide responses and investigations to citizens and criminal justice community members that submit requests to resolve individual questions/issues and promote systemic improvements in agencies related to rights of crime victims to assure crime victim rights are protected at all stages of the criminal justice process

Training, Provider Certification, and Statistical Analysis

Provide training and certification to those interacting with crime victims to assure crime victim rights are protected at all stages of the criminal justice process

Provide research/ analysis of criminal justice data to policymakers to keep them apprised of issues relevant to crime victims

Crime Victim Assistance Grants

Provide federal and state financial assistance grants to government and non-government agencies that submit applications to help with expenses for projects that provide direct services to crime victims in South Carolina (e.g., victim advocacy, residential shelters, forensic exams)

Crime Victim Compensation

Provide state financial compensation to eligible crime victims that submit applications to help with expenses directly resulting from a crime that are not covered by other payment sources



Crime Victim Assistance Grants

Alan Wilson
Attorney General

B.J. Nelson
Director

Mission

To provide for the administration of grant funds to governmental and non-profit agencies for the support and enhancement of **direct services to victims of crime.**

Applicable Laws

- Federal Victims of Crime Act (VOCA) 1984- Public Law 98-473
- Federal Violence Against Women Act (VAWA) 1994 – Title IV of the Violent Crime Control and Law Enforcement Act, Public Law No. 103-322. 108 Statute 1796
- S.C. Omnibus Criminal Justice Improvements Act 1986 – S.C. Code Section 23-3-40

How we accomplish our mission

- Grant funds help provide victims services such as:
 - Victim Advocacy
 - Residential Shelters
 - Forensic Nurse Examiners
 - Emergency Assistance
 - Human Trafficking
- Positions at governmental and non-profit organizations paid with grant funds:
 - FY 2020: 772 (645 full time / 127 part time)
 - FY 2021: 702 (530 full time / 172 part time)



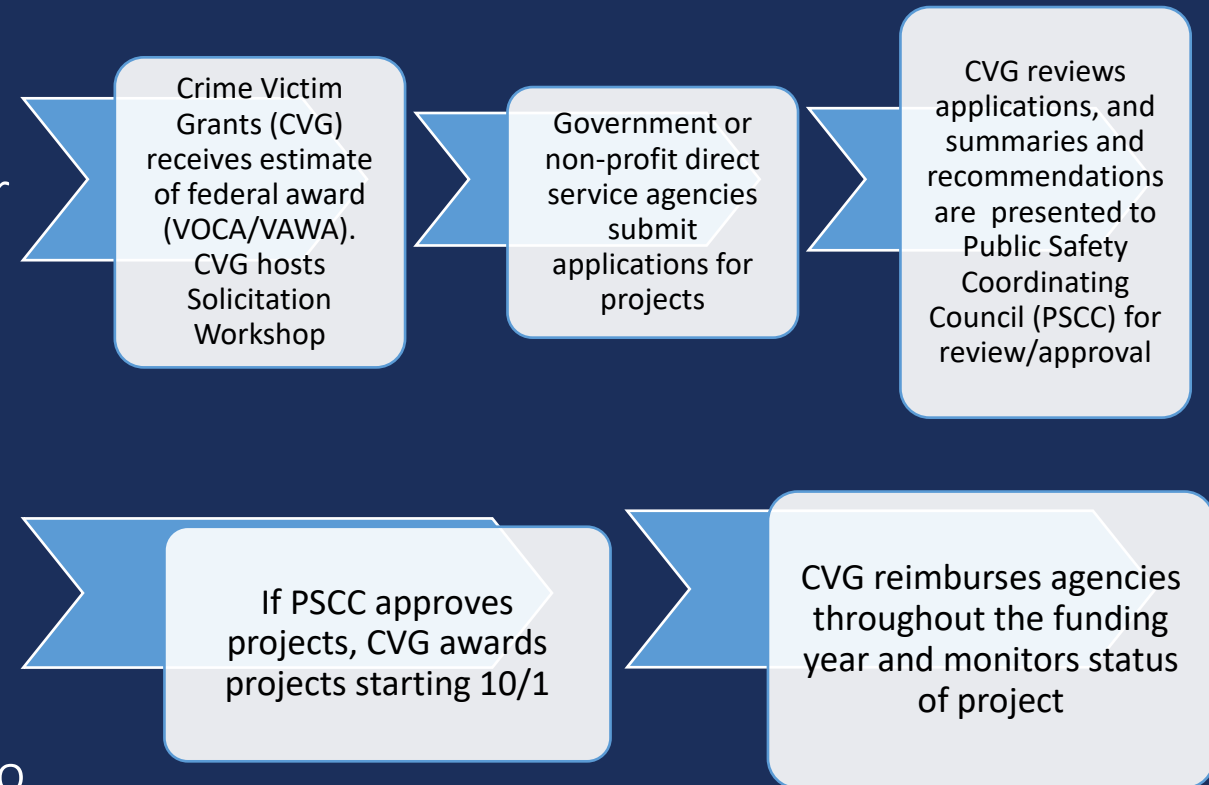
Crime Victim Assistance Grants

Alan Wilson
Attorney General

B.J. Nelson
Director

SC Code Section 16-3-1095:

- Apply for and administer federal grant funds under VOCA & VAWA (*Victims of Crime Act and Violence Against Women Act*)
- Administer SVAP (*State Victims Assistance Program*)
- Solicit grant funding proposals from governmental entities and non-profits
- Review proposals and present recommendations to the Public Safety Coordinating Council (PSCC)*
- Oversee the proper administration of sub-grants and provide technical assistance to projects.



*See next slide



Crime Victim Assistance Grants

Alan Wilson
Attorney General

B.J. Nelson
Director

Public Safety Coordinating Council

Purpose:

- Administers certain responsibilities of the Department of Public Safety and coordinate certain activities between the department, the Office of the Attorney General, the South Carolina Law Enforcement Division and municipal and county law enforcement agencies.

Duties related to AG's Office include:

- In collaboration with AG's Department of Crime Victim Assistance grants, establish process to solicit and administer fund disbursement for Victims of Crime Act grants, the Violence Against Women Act grants, the State Victim's Assistance Program grants and all other crime victim service funding as provided by law, including, but not limited to, the authority to solicit for federal formula or discretionary grant awards and foundation funding.

Members include:

- Governor or designee (chair)
- Senate Judiciary Committee Chair or designee
- House Judiciary Committee Chair or designee
- SLED Chief
- DPS Director
- Attorney General or designee;
- Sheriff appointed by the Governor
- Municipal police chief appointed by the Governor
- Victim representative appointed by the Governor
- Victim with a documented history of victimization appointed by the Attorney General

*See, S.C. Code Section 23-6-500



Crime Victim Assistance Grants Personnel

Alan Wilson
Attorney General

B.J. Nelson
Director

	Turnover	Leave unit during year	Exit interviews conducted	In unit at end of year	Satisfaction tracked
2016-17		0	No	0	No
2017-18	19%	2	No	11	Yes
2018-19	18%	2	Yes	12	No
2019-20	44%	4	Yes	7	No

Note:

FY 2020

- 1 left for employment with another state agency
- 3 left the division because the Office restructured the financial portion of Crime Victim Assistance Grants to fall under the Finance Section of the Administration Division

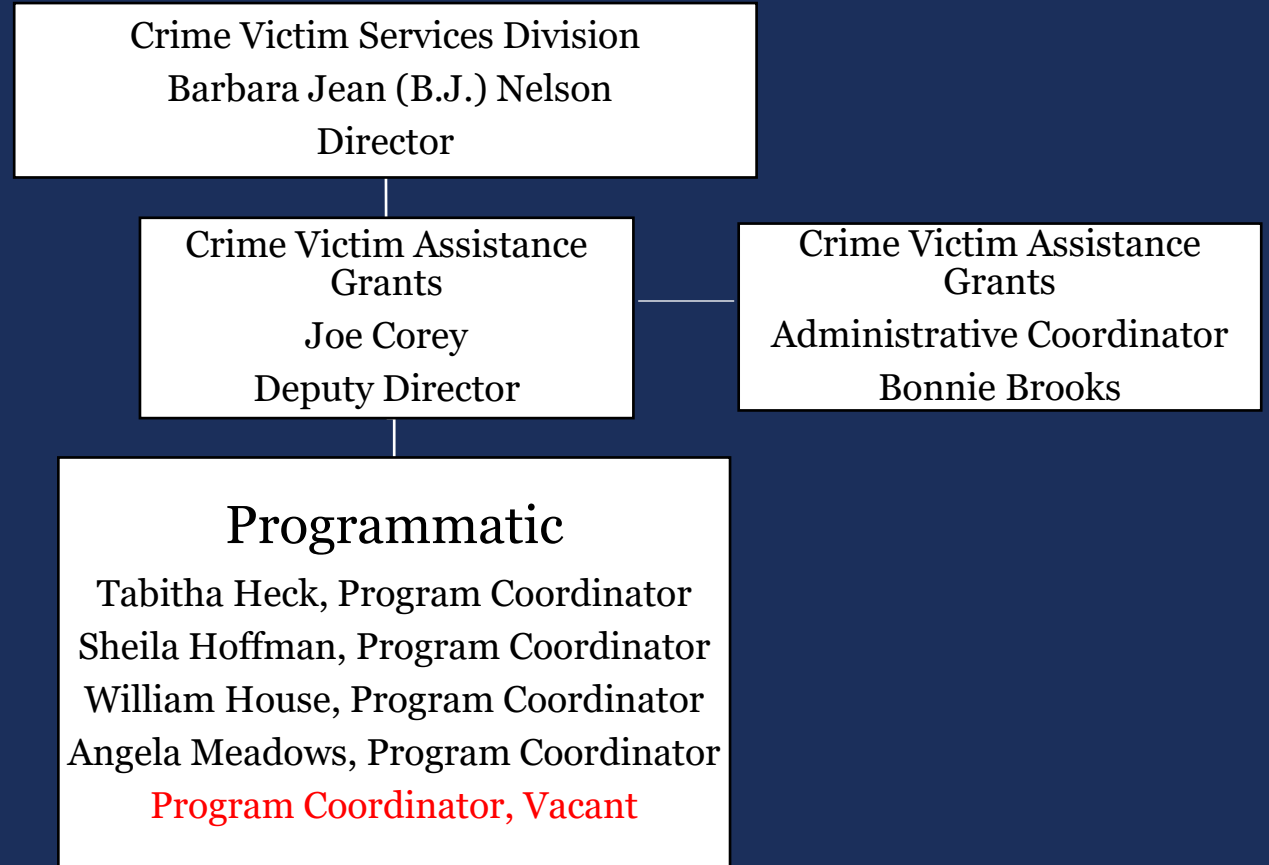


Crime Victim Assistance Grants Personnel

Alan Wilson
Attorney General

B.J. Nelson
Director

Departures	Current Employees	Additions
<p>Barbara Jean (B.J.) Nelson (new CVS Director)</p> <p>Ginger Dukes (new CVST Deputy Director)</p>	<p>Joe Corey (FTE)</p> <p>Bonnie Brooks (FTE)</p> <p>Sheila Hoffman (FTE)</p> <p>William House (FTE)</p> <p>Angela Meadows (FTE)</p> <p>Tabitha Heck (FTE)</p>	<p>Angela Meadows (effective December 17, 2021)</p> <p>Tabitha Heck (effective Feb. 17, 2022)</p>





Alan Wilson
Attorney General

B.J. Nelson
Director

Associated Services

The next slides only contain information on services that are associated with this section of the agency.

Funding Distribution

Victims of Crime Act (VOCA)

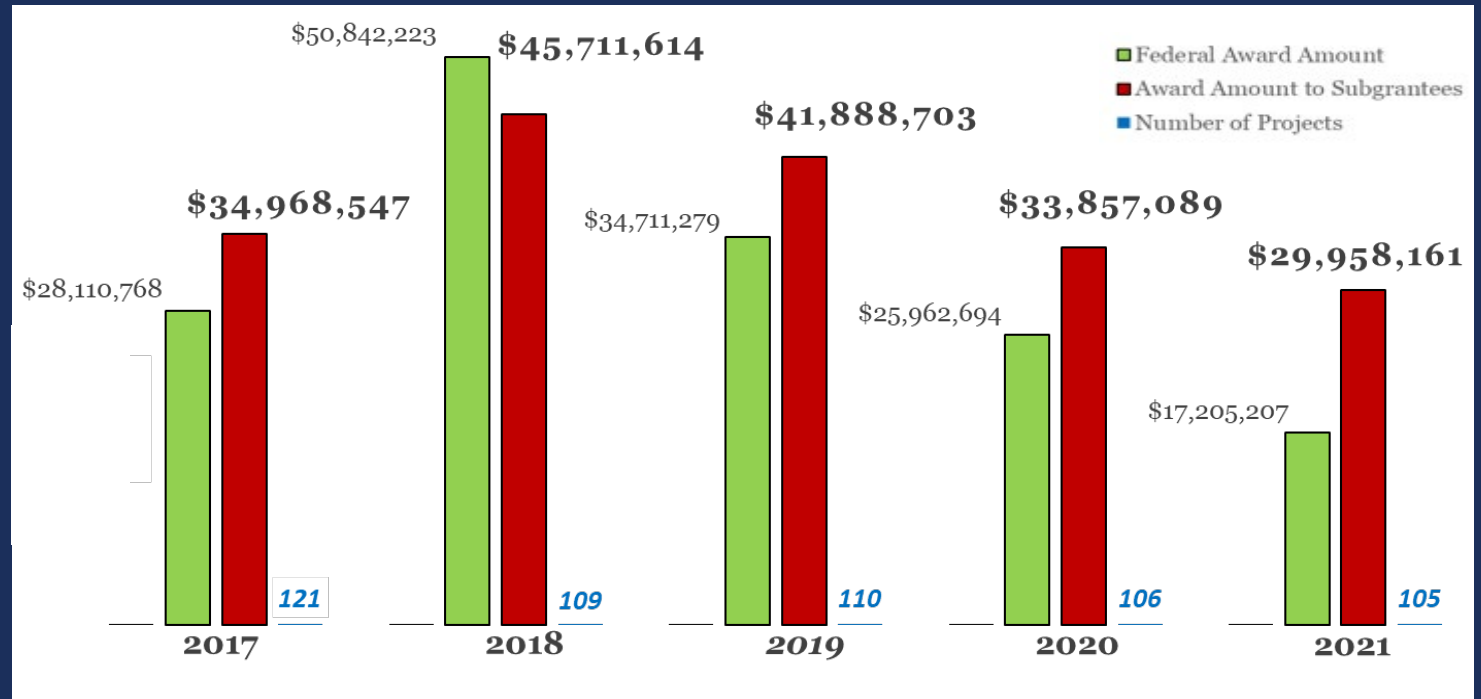
Total amount in applications approved at CVG level for S.C. projects

Federal FY 2020: \$33,857,089

Federal FY 2021: \$29,958,161

Program Priority Areas

- Sexual Assault
- Spousal Abuse
- Child Abuse and Neglect
- Underserved Victims of Violent Crime



Agency Service #213 - S.C. Code Section 16-3-1095

Customers: Criminal justice government agencies and non-profits

Funding Distribution

Violence Against Women Act (VAWA)

Total amount in applications approved at federal level for S.C. projects

FY 2020: \$2,430,659

FY 2021: \$2,461,008

Program Priority Areas

Projects that primarily focus on female victims of

- Domestic Violence
- Sexual Assault
- Dating Violence
- Stalking over the age of 11

Note: There are 20 priority purpose areas Pursuant to 34 U.S.C. 10441(b) (See "VAWA Priority Purpose Areas" in meeting packet)



Agency Service #214 - S.C. Code Section 16-3-1095

Customers: Criminal justice government agencies and non-profits

Funding Distribution

State Victims Assistance Program (SVAP)

Source:

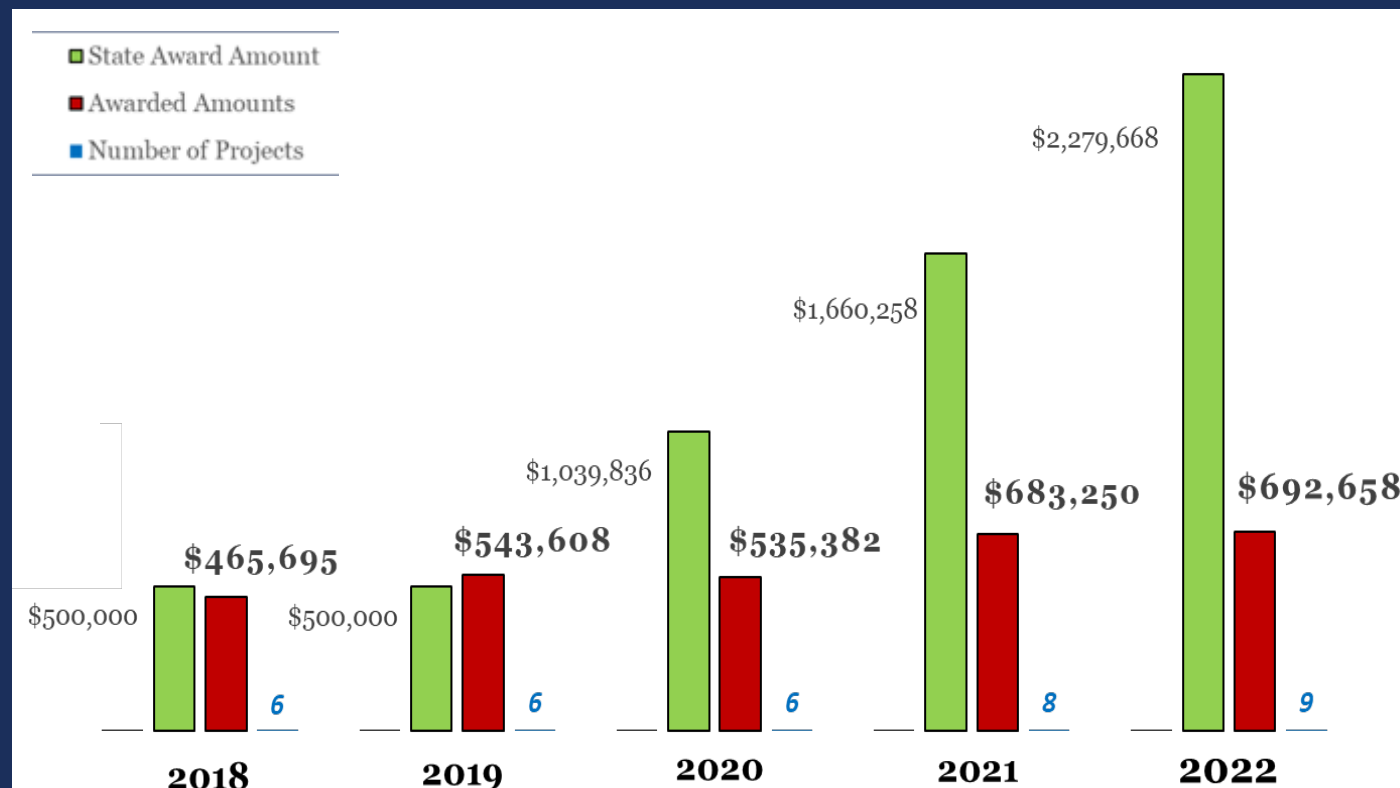
- Other funds garnished from SCDC inmate work-release pay
- Act 141 Recovery Funds

Total amount in applications approved for S.C. projects

- FY 2021: \$683,250
- FY 2022: \$692,658

Program Priority Areas

- Sexual Assault
- Spousal Abuse
- Child Abuse and Neglect
- Underserved Victims of Violent Crime
- Training



Agency Service #215 - S.C. Code Section 16-3-1095

Customers: Criminal justice government agencies and non-profits

Crime Victim Assistance Grants

Funding Sources

Victims of Crime Act (VOCA)

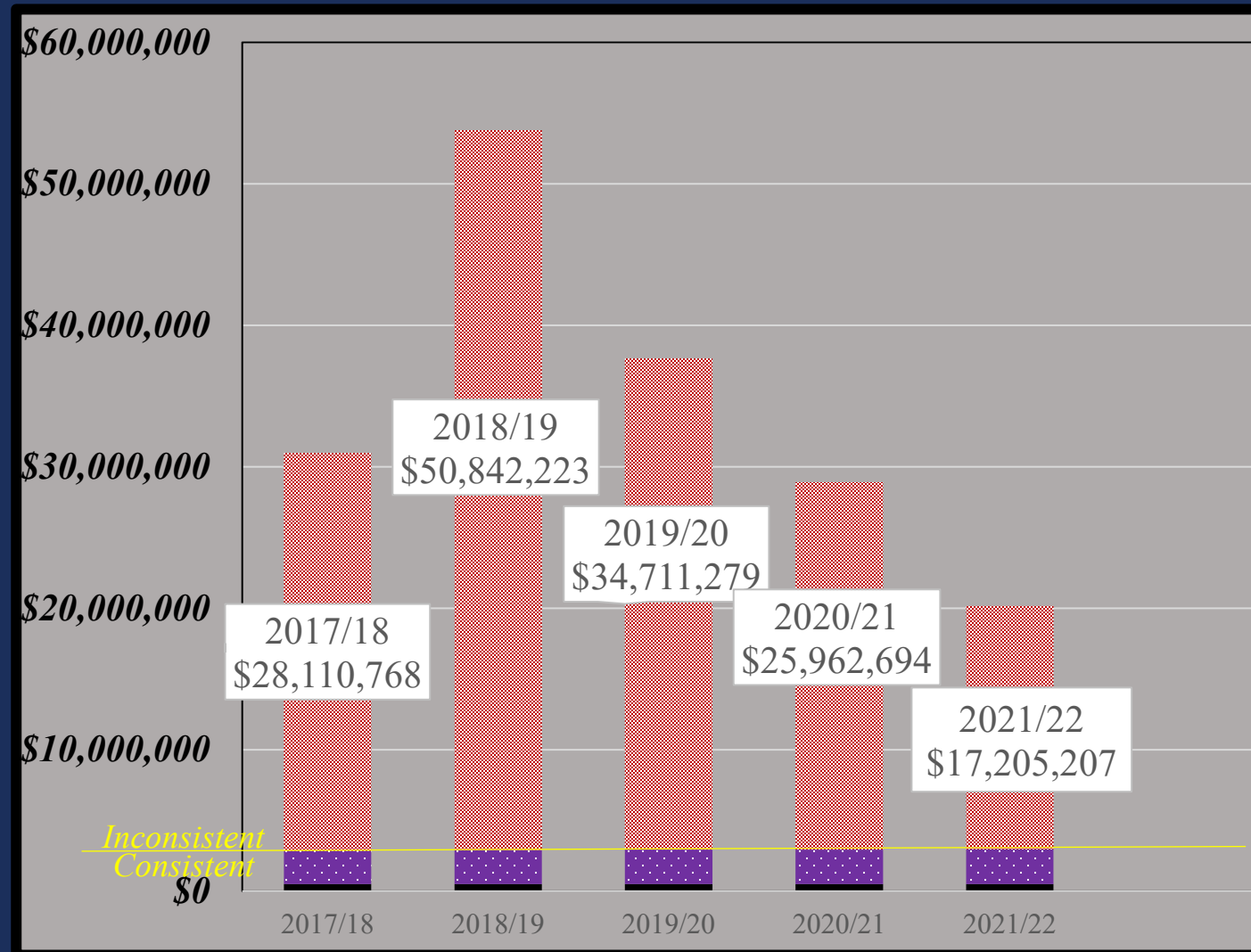
- *Source:* Federal Fines, Fees, and Assessments
- *Stability:* Fluctuates greatly
- *Law:* 1984, Public Law 98-473

Violence Against Women Act (VAWA)

- *Source:* Federal Appropriation
- *Stability:* Stable and consistent
- *Law:* 1994, Title IV of the Violent Crime Control and Law Enforcement Act, Public Law 103-322

State Victim Assistance Program (SVAP)

- *Source:* Other funds from SCDC inmate work release pay; and solicitation of grant funding from governmental entities and non-profits
- *Stability:* Stable and consistent
- *Law:* 1986, Omnibus Criminal Justice Improvements Act; 2017, S.C. Crime Victim Services Act



Does law require it:

Yes

Assoc. Law(s):

Section 16-3-1095

Purpose (as understood by agency):

Establish a process to administer all other crime victim service funding as provided by law, including, but not limited to, the authority to solicit for federal formula or discretionary grant awards and foundation funding.

Customers:

Criminal justice agencies and non-profits

Agency Service #216

Administer other crime victim service funding –

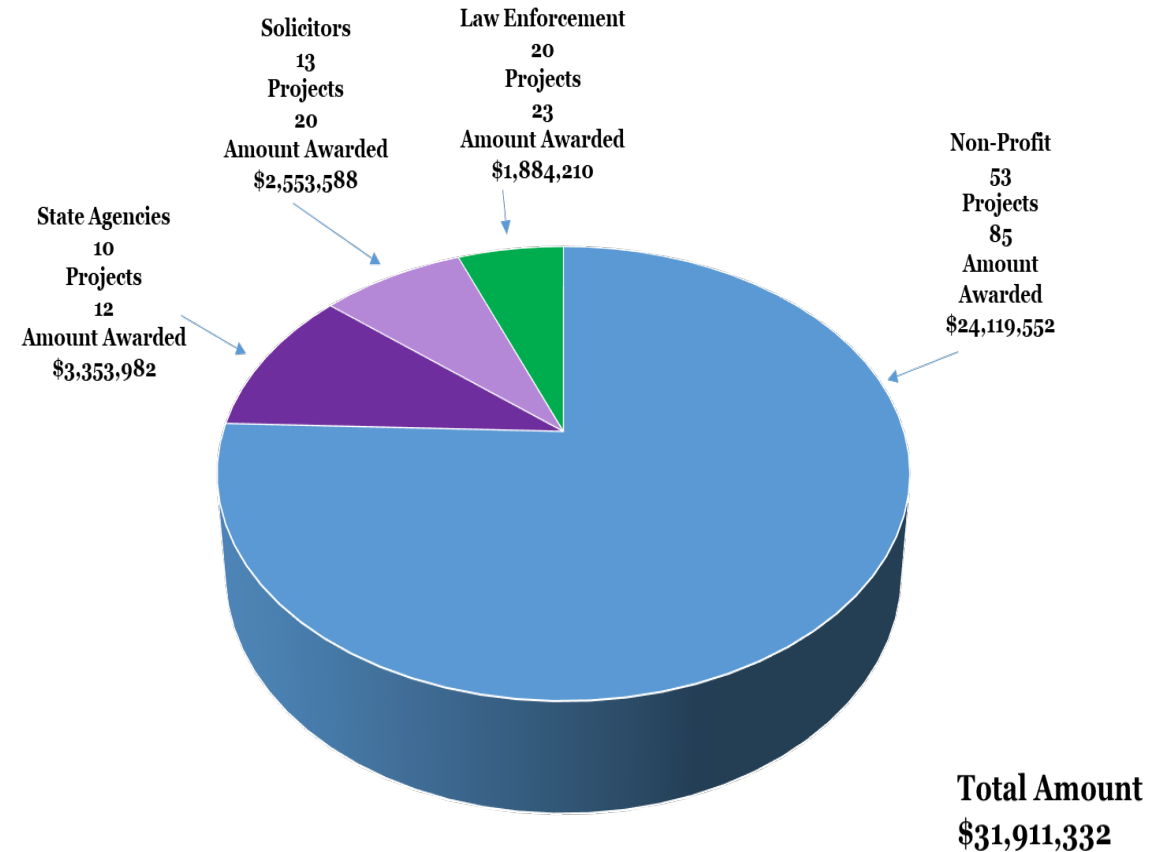
FFY2019 – Federal Technology Grant:

U.S. Department of Justice, Office of Victim Crimes, Victim Notification Project to the SC Department of Corrections -
\$600,000

Crime Victim Assistance Grants

2021 Grants and Customers	Non-profit	State Agencies	Solicitors	Law Enforcement
Amount applied for	\$25.2 M	\$3.3 M	\$2.8 M	\$1.9 M
Amount Approved	\$24.1 M	\$3.3 M	\$2.5 M	\$1.9 M
Number of Entities	53	10	13	20
Avg. amount per entity	\$455,085	\$335,398	\$196,429	\$94,210
Number of projects	85	12	20	23
Avg. amount per project	\$283,759	\$279,498	\$127,679	\$81,922

CRIME VICTIM ASSISTANCE COMBINED GRANTS APPROVED IN 2021





Alan Wilson
Attorney General

B.J. Nelson
Director

Associated Successes and Concerns

The next slides only contain information on services that are associated with this section of the agency.

Crime Victim Assistance Grants

SUCSESSES

- 148 applications were reviewed and processed successfully
- Due to COVID-19, the 2021 and 2022 Solicitation and Implementation Workshops were held via Go To Webinar for participants

Crime Victim Assistance Grants

CONCERNS

- Although the agency's grants system is functional, there is continual development occurring for improvements and enhancements to support staff and subrecipients.
- Any further reduction in Federal FY2022 VOCA funds (and subsequent future funds) by Congress

Attachment (C)

VAWA Purpose Areas

Pursuant to 34 U.S.C. § 10441(b), funds under this program must be used for one or more of the following purposes:

1. Training law enforcement officers, judges, other court personnel, and prosecutors to more effectively identify and respond to violent crimes against women, (including the crimes of domestic violence, dating violence, sexual assault, and stalking, including the appropriate use of nonimmigrant status under subparagraphs (T) and (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. § 1101(a)(15))).
2. Developing, training, or expanding units of law enforcement officers, judges, other court personnel, and prosecutors specifically targeting violent crimes against women, including the crimes of domestic violence, dating violence, sexual assault, and stalking.
3. Developing and implementing more effective police, court, and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of domestic violence, dating violence, sexual assault, and stalking, as well as the appropriate treatment of victims.
4. Developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying, classifying, and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of domestic violence, dating violence, sexual assault, and stalking.
5. Developing, enlarging, or strengthening victim services and legal assistance programs, including domestic violence, dating violence, sexual assault, and stalking programs, developing or improving delivery of victim services to underserved populations, providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of domestic violence, dating violence, sexual assault, and stalking.
6. Developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of domestic violence, dating violence, sexual assault, and stalking.
7. Supporting formal and informal statewide, multidisciplinary efforts, to the extent not supported by state funds, to coordinate the response of state law enforcement agencies, prosecutors, courts, victim services agencies, and other state agencies and departments, to violent crimes against women, including the crimes of domestic violence, dating violence, sexual assault, and stalking.
8. Training of sexual assault forensic medical personnel examiners in the collection and preservation of evidence, analysis, prevention, and providing expert testimony and treatment of trauma related to sexual assault.
9. Developing, enlarging, or strengthening programs to assist law enforcement, prosecutors, courts, and others to address the needs and circumstances of older and disabled women who are victims of domestic violence, dating violence, sexual assault, or stalking, including recognizing, investigating, and prosecuting instances of such violence or assault and targeting outreach and support, counseling, and other victim services to such older and disabled individuals.
10. Providing assistance to victims of domestic violence and sexual assault in immigration matters.
11. Maintaining core victim services and criminal justice initiatives, while supporting complementary new initiatives and emergency services for victims and their families.
12. Supporting the placement of special victim assistants (to be known as “Jessica Gonzales Victim Assistants”) in local law enforcement agencies to serve as liaisons between victims of domestic

violence, dating violence, sexual assault, and stalking and personnel in local law enforcement agencies in order to improve the enforcement of protection orders. Jessica Gonzales Victim Assistants shall have expertise in domestic violence, dating violence, sexual assault, or stalking and may undertake the following activities:

a. developing, in collaboration with prosecutors, courts, and victim service providers, standardized response policies for local law enforcement agencies, including the use of evidence-based indicators to assess the risk of domestic and dating violence homicide and prioritize dangerous or potentially lethal cases;

b. notifying persons seeking enforcement of protection orders as to what responses will be provided by the relevant law enforcement agency;

c. referring persons seeking enforcement of protection orders to supplementary services (such as emergency shelter programs, hotlines, or legal assistance services); and

d. taking other appropriate action to assist or secure the safety of the person seeking enforcement of a protection order.

13. Providing funding to law enforcement agencies, victim services providers, and state, tribal, territorial, and local governments (which funding stream shall be known as the Crystal Judson Domestic Violence Protocol Program) to promote:

a. the development and implementation of training for local victim domestic violence service providers, and to fund victim services personnel, to be known as "Crystal Judson Victim Advocates," to provide supportive services and advocacy for victims of domestic violence committed by law enforcement personnel;

b. the implementation of protocols within law enforcement agencies to ensure consistent and effective responses to the commission of domestic violence by personnel within such agencies such as the model policy promulgated by the International Association of Chiefs of Police ("Domestic Violence by Police Officers: A Policy of the IACP, Police Response to Violence Against Women Project" July 2003)); and

c. the development of such protocols in collaboration with state, tribal, territorial and local victim services providers and domestic violence coalitions.

14. Developing and promoting state, local, or tribal legislation and policies that enhance best practices for responding to domestic violence, dating violence, sexual assault, and stalking.

15. Developing, implementing, or enhancing Sexual Assault Response Teams, or other similar coordinated community responses to sexual assault.

16. Developing and strengthening policies, protocols, best practices, and training for law enforcement agencies and prosecutors relating to the investigation and prosecution of sexual assault cases and the appropriate treatment of victims.

17. Developing, enlarging, or strengthening programs addressing sexual assault against men, women, and youth in correctional and detention settings.

18. Identifying and conducting inventories of backlogs of sexual assault evidence collection kits and developing protocols and policies for responding to and addressing such backlogs, including protocols and policies for notifying and involving victims.

19. Developing, enlarging, or strengthening programs and projects to provide services and responses targeting male and female victims of domestic violence, dating violence, sexual assault, or stalking, whose ability to access traditional services and responses is affected by their sexual orientation or gender identity, as defined in section 249(c) of title 18 of the United States Code.

20. Developing, enhancing, or strengthening prevention and educational programming to address domestic violence, dating violence, sexual assault, or stalking, with not more than 5 percent of the amount allocated to a state to be used for this purpose.]

AGENCY PRESENTATION – CIVIL LITIGATION

The seal of the State of South Carolina is faintly visible in the background. It features a central figure of a woman holding a staff with a snake coiled around it, surrounded by a circular border with the text "OFFICE OF THE ATTORNEY GENERAL" and "STATE OF SOUTH CAROLINA".

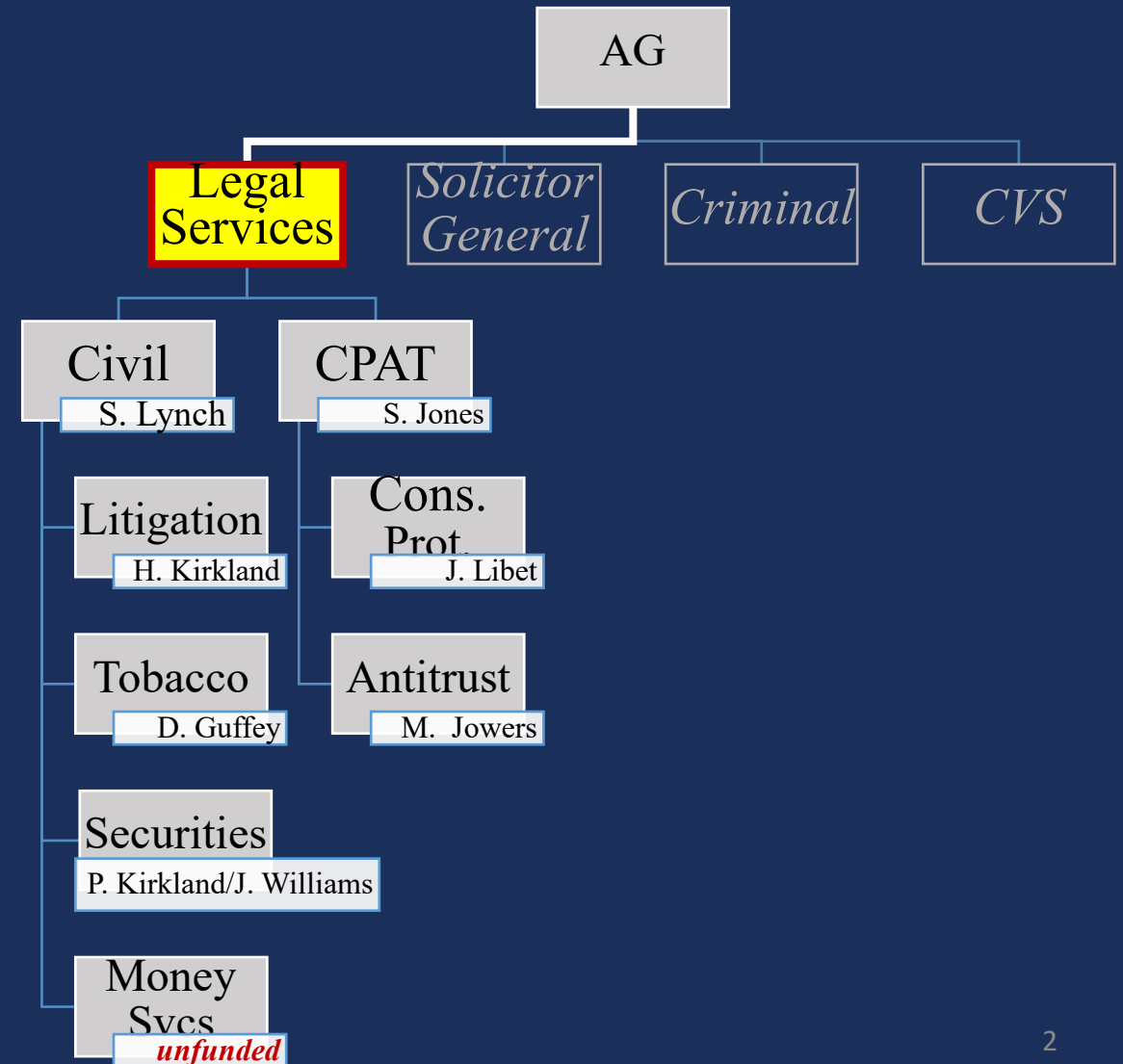
LEGAL
SERVICES
DIVISION



LEGAL SERVICES

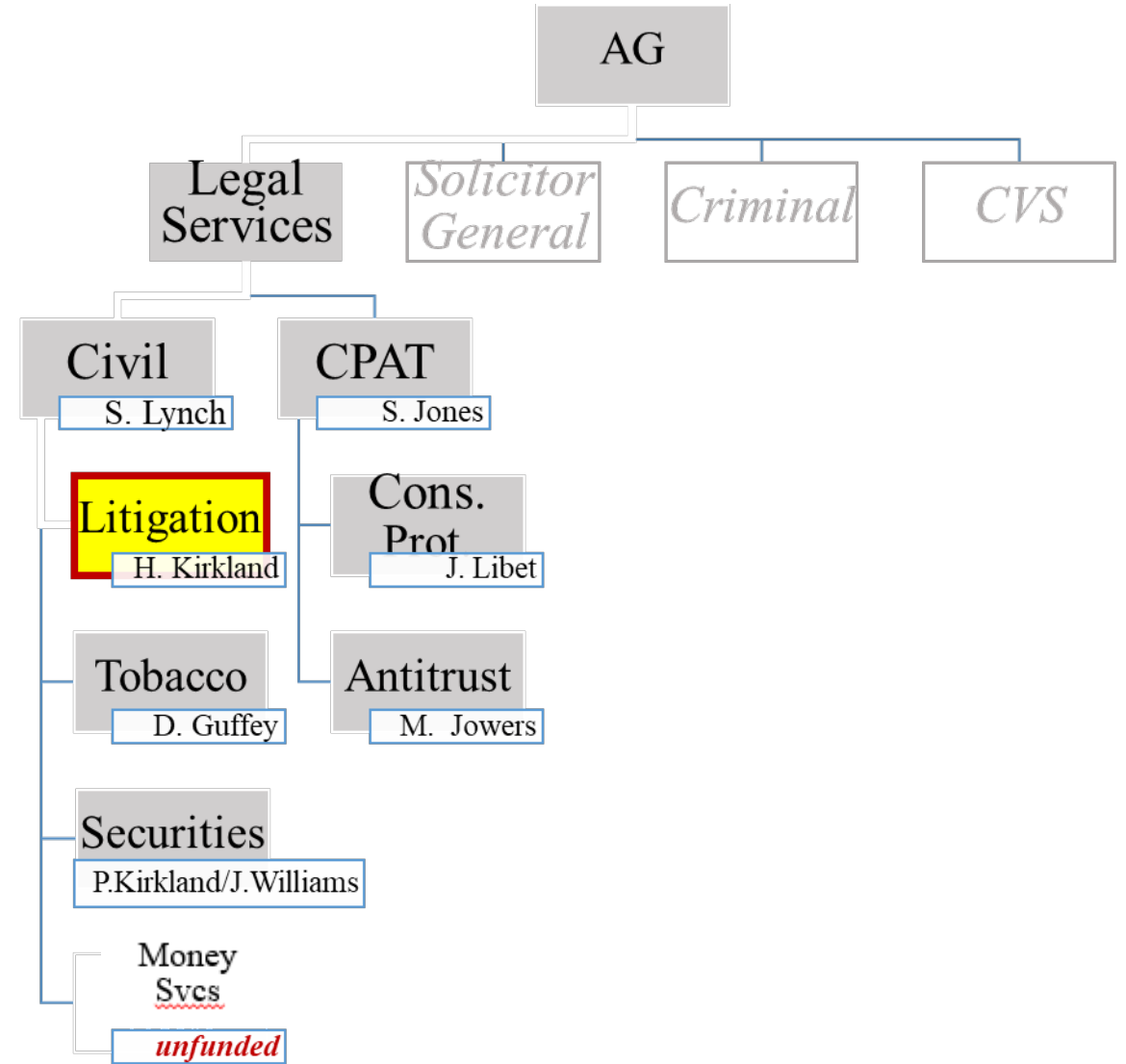
Legal Services is commonly referred to as the Civil Division.

There are very distinct functions for Litigation, Tobacco, Securities, Money Services, and CPAT sections.





Civil Litigation Section



Personnel

	Turnover	Number of Employees	
		Leave unit during year	In unit at end of year
2016-17	0%	0	6
2017-18	0%	0	6
2018-19	33.3%	2	6
2019-20	33.3%	2	6

Note:

- FY 2019:
 - 2 employees left to work outside state government
- FY 2020:
 - 1 employee left to work outside state government
 - 1 employee retired

Exit interviews or surveys conducted?

2016-17	No
2017-18	No
2018-19	Yes
2019-20	Yes

Employee satisfaction tracked?

2016-17	No
2017-18	Yes
2018-19	No
2019-20	No

Overview

General Civil Litigation provides the State with superior representation as the “go to” area for novel legal issues and handles matters in the following areas:

Represent the State

Service #1 – Represent the state, including where required or appropriate, state employees, agencies, judges, and other court officials in general civil litigation

Service #2 – Monitor cases handled by the Insurance Reserve Fund in which the state (i.e., state employees, agencies, judges, and other court officials), may have an interest

Service #3 – Uphold statutory requirements for sex offender registration

Service #4 – File pleadings to preserve State’s interest in mortgage foreclosures where the State has a lien

Service #12 – Maintain actions to enjoin use of unpermitted river shacks

Provide Impartial Legal Advice

Service #5 – Serve as committee attorney for State Employee Grievance Committee hearings

Service #6 – Conduct extradition hearings, when needed

Service #11 – Serve as Securities Hearing Officer, when needed

Agencies must consult AG

Service #7 – Review state agencies’ Form 1 requests to hire outside counsel

Service #8 – RSIC consult AG on engagements to hire attorneys on fee basis

Bonds

Service #9 – Issue opinion letters in connection with bond issuances by the State

Service #10 – Review employee and agency fiduciary bonds and revenue bonds

Provide services to specific agencies

Service #13 – Enforce marketing orders at request of Agriculture Commission and Commodity Board

Service #18 – Provide services to Savannah River Maritime Commission

Service #19 – Provide services to S.C. Conservation Bank Board

Notify Agencies about the following:

Service #14 – Foreclosures in which they may have interest

Service #15 – Bankruptcies in which they may have interest (notify MMO)

Service #16 – Lawsuits in which agency is a party

Service #17 – Verified tort claims (notify IRF)

Other...

Service #30 – FOIA requests

No related service # - Civil asset forfeitures

No related service # - Easements granted by the Department of Administration

REPRESENT THE STATE

Monitor Cases

(Agency Service #2)

In cases handled by the Insurance Reserve Fund (IRF)

- Monitor cases filed against the Attorney General’s Office.
- Monitor cases filed against other agencies, judges, etc. in which they have requested the Attorney General’s Office monitor

Note: IRF provides state agencies insurance coverage for certain tort claims and appoints private defense attorneys to represent

Does law require it:	Purpose:	Customers:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
No Assoc. Laws: State Constitution Article 5, Section 24	Ensure cases are handled appropriately and the State can become involved in cases with an interest, if necessary	The State, state employees, agencies, departments, judges, and court officials	Cases primarily handled by the Insurance Reserve Fund or cases being monitored in which the State or state entity may need to be involved in	2016-17	56.00	\$485.05	0.24	\$27,163.04	0.14%
				2017-18	67.00	\$433.16	0.25	\$29,021.43	0.05%
				2018-19	15.00	\$2,096.54	0.26	\$31,448.14	0.05%
				2019-20	25.00	\$1,903.20	0.28	\$47,579.94	0.06%

Sex Offender Registry Cases

(Agency Service #3)

- Represent the State when individuals file lawsuits to circumvent the statutory requirements for sex offender registration (e.g., registering for life)
- Some of these cases are filed pursuant to *Thompson v. State* (415 S.C. 560), which allows individuals convicted of kidnapping to have a hearing to determine if the kidnapping was sexual in nature.

Does law require it:	Purpose:	Customers:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
No	To uphold the Sex Offender Registry Act which was implemented to protect communities and aid law enforcement. (Section 23-3-400)	The State, the South Carolina Law Enforcement Division, and the public	Cases concerning whether individuals must register as a sex offender or remain on the sex offender registry	2016-17	13.00	\$4,357.41	0.44	\$56,646.37	0.29%
				2017-18	8.00	\$7,198.42	0.45	\$57,587.32	0.10%
Assoc. Laws: Section 23-3-400 et seq.				2018-19	12.00	\$4,812.47	0.39	\$57,749.60	0.09%
				2019-20	11.00	\$6,047.34	0.25	\$66,520.79	0.09%

Mortgage Foreclosure Cases

(Agency Service #4)

- Typically, an agency has a lien and the individual filing the foreclosure mistakenly lists the State instead of the individual agency.
- Example:
 - Department of Probation, Parole, and Pardon has a lien because of a judgment on restitution owed by an offender
- To ensure a state agency does not lose its interests in a lien, the Attorney General files an answer and/or helps ensure the state agency is properly added to the matter

Does law require it:	Purpose:	Customers:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
No	Ensure liens held by the State or Agencies are protected if there are surplus funds	The State	Mortgage foreclosure cases in which the State asserts an interest	2016-17	59.00	\$532.89	0.22	\$31,440.35	0.16%
Assoc. Laws: State Constitution Article 5, Section 24				2017-18	41.00	\$841.27	0.24	\$34,491.91	0.06%
				2018-19	11.00	\$2,740.50	0.20	\$30,145.51	0.05%
				2019-20	17.00	\$4,487.50	0.29	\$76,287.57	0.10%

PROVIDE IMPARTIAL LEGAL ADVICE

Committee Attorney for the State Employee Grievance Committee

(Agency Service #5)

Background

- Most state employees are not at will and to suspend or terminate them requires certain procedures. Employees can grieve those decisions to the State Employee Grievance Committee if they believe the proper steps did not occur.
- Committee attorney does not represent the employee or agency involved in the hearing

Service

- Committee attorney responsibilities include:
 - determining order and relevance of testimony and appearance of witnesses
 - ruling on all motions and all legal issues
- Committee attorney may also do the following:
 - assist the committee in the preparation of its findings of fact, statements of policy, and conclusions of law.
 - be present during the committee's deliberations on its decision (but only upon the request of the presiding officer)

Note: Parties are bound by the decisions of the committee chairman or a designee or the committee attorney, insofar as these hearings are concerned.

					<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Does law require it: Yes	Purpose:	Customers:	Single Unit:						
	Rule on motions and legal issues	South Carolina	Employee	2016-17	14.00	\$1,137.19	0.15	\$15,920.61	0.08%
Assoc. Laws: Section 8-17-340	and provide legal advice to the	Employee Grievance	Grievance	2017-18	15.00	\$1,410.00	0.15	\$21,149.97	0.04%
	State Employee Grievance	Committee	Hearings	2018-19	7.00	\$3,071.36	0.14	\$21,499.53	0.03%
	Committee as requested.			2019-20	6.00	\$5,266.80	0.14	\$31,600.79	0.04%

Conduct Extradition Hearings When Needed

(Agency Service #6)

Background:

- When another state requests S.C. return an individual to that state for criminal charges pending in that state, S.C. Governor can request the Attorney General's Office conduct a hearing if the individual does not want to return to the other state.
 - Individuals can waive the hearing and voluntarily be returned

Service:

- Conduct informal hearings and write recommendation letters to the Governor
 - AG personnel must take an oath that they will fairly and impartially conduct the hearing and report the testimony and their recommendations to the Governor
- Not all files have a hearing or require a recommendation letter. Sometimes the fugitive will sign a waiver agreeing to return to the requesting state, eliminating the need for a hearing. Sometimes the fugitive will have been released on bond and will not attend the hearing.

Does law require it:	Purpose:	Customers:	Single Unit:	Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
No	Provide individuals an opportunity to state why they believe they should not be extradited, and provide a recommendation letter to the Governor	The Governor of the State of South Carolina	Extradition cases received from SLED and the Governor	2016-17	30.00	\$546.58	\$16,397.39	0.08%
Assoc. Laws: Section 17-9-50; Section 17-11-80; 18 U.S.C.A. §3182				2017-18	37.00	\$452.03	\$16,724.93	0.03%
				2018-19	36.00	\$484.62	\$17,446.26	0.03%
				2019-20	37.00	\$717.55	\$26,549.32	0.03%

Conduct Securities Hearings When Requested

(Agency Service #11)

Background:

- When an individual who receives pleadings from the AG's Securities section (e.g., cease and desist), the individual can request a hearing.
- When the hearing is requested, an attorney from the General Civil Litigation section may be appointed as the Securities Hearing Officer.
- The Attorney General is the Securities Commissioner in S.C.

Service:

- Conduct actions needed as Securities Hearing Officer in securities enforcement actions
- Often cases settle after appointment as Securities Hearing Officer and prior to the hearing date.

Does law require it: Yes	Purpose:	Customers:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Assoc. Laws: Section 35-1-306; Section 35-1-601	Provide a review process when orders issued by the Securities Commissioner are challenged.	The State of South Carolina (the public)	Appointments as Securities Hearing Officer(Note: Case may settle after appointment and prior to the hearing)	2016-17	3.00	\$1,207.25	0.03	\$3,621.75	0.02%
				2017-18	2.00	\$1,621.50	0.03	\$3,242.99	0.01%
				2018-19	1.00	\$1,293.33	0.01	\$1,293.33	0.00%
				2019-20	0.00	0	0.01	\$1,460.31	0.00%

File Action to Enjoin Use of River Shacks

(Agency Service #12)

Background:

- River Shacks are not boats nor house boats. They are unpermitted structures.

Service:

- Maintain an action to enjoin the use of the unpermitted structure and seek an order from the court that the unpermitted structure be removed

Note: In the House Legislative Oversight Committee’s Study of Department of Natural Resources, the Committee recommended repeal of the associated law, as recommended by DNR (see Recommendation #90)

Does law require it: No	Purpose:	Customers:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Assoc. Laws: Section 49-30-70	Maintain an action to enjoin the use of the unpermitted structure and seek an order form the court that the unpermitted structure be removed.	S.C. Department of Natural Resources	River shack cases received from the Department of Natural Resources	2016-17	0.00	0	0.00	\$0.00	0.00%
				2017-18	0.00	0	\$0.00	0.00%	
				2018-19	0.00	0	\$0.00	0.00%	
				2019-20	0.00	0	\$0.00	0.00%	

CONSULT WITH AGENCIES

Review and Make Decisions on Form 1 requests for outside counsel

- Review and take action on agency Form 1 requests to engage outside counsel
- These were discussed in the prior presentation on “Hiring Internal Attorney Employees and Outside Counsel”

Review Retirement System Investment Commission Outside Attorney Information

- Prior to new law going into effect on July 1, 2017, RSIC was required to utilize Form 1s. (Therefore, no notices were received in FY16)
- Under new law, RSIC must consult with AG, but is not required to obtain formal approval. Additionally, RSIC must provide regular reports to the AG, which is not required of agencies using Form 1s.

Agency Service #7: Review and Make Decisions on Form 1 requests for outside counsel

				<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>	
Does law require it: Yes Assoc. Laws: Section 1-7-170	Purpose: Ensure departments and agencies enter into appropriate fee agreements with attorneys	Customers: Departments and State Agencies	Single Unit:	2016-17	816.00	\$99.31	0.79	\$81,035.00	0.41%
			Received Form	2017-18	922.00	\$95.83	0.58	\$88,352.69	0.15%
			1s	2018-19	1,061.00	\$100.26	0.76	\$106,370.75	0.16%
				2019-20	1,281.00	\$150.74	0.72	\$193,103.91	0.25%

Agency Service #8: Review Retirement System Investment Commission Outside Attorney Information

				<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>	
Does law require it: Yes Assoc. Laws: Section 9-16-315	Purpose: Allow the Investment Commission to engage attorneys on a fee basis in consultation with the Attorney General	Customers: C. Retirement System Investment Commission	Single Unit:	2016-17	0.00	0	0.01	\$2,401.70	0.01%
			Engagement	2017-18	26.00	\$51.12	0.01	\$1,329.19	0.00%
			Notices Received	2018-19	27.00	\$50.47	0.01	\$1,362.56	0.00%
				2019-20	37.00	\$842.26	0.01	\$31,163.55	0.04%

REVIEW BONDS

Issue Bond Letters

(Agency Service #9)

Background:

- Certain information must be submitted to the Budget and Control Board* to secure approval of the following:
 - a proposal to issue industrial revenue bonds, pollution control bonds, or hospital revenue bonds OR
 - issue and sale of bonds or notes (hereafter bonds) by a city, county or regional housing authority to finance multifamily housing projects
- Prior to Budget and Control Board approval of a proposal, some of those documents must be reviewed and found legally adequate by the Office of the Attorney General (e.g., the resolution/ordinance, the petition, the inducement resolution or comparable preliminary approval, if any, the proposed Board resolution, and any required certificate)

Service:

- Issue letters in connection with certain bond issuances such as whether the bonds comply with the applicable statutes and regulations

*Note: S.C. Code of Regulations Chapter 19 appears to remain titled and applicable to the now defunct Budget and Control Board.

Does law require it:	Purpose:	Customers:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
No	Provide information to the State Fiscal Accountability Authority with regard to legal adequacy of certain documents	State Fiscal Accountability Authority	Bond opinion letters written	2016-17	38.00	\$198.48	0.07	\$7,542.27	0.04%
Assoc. Laws: State Constitution Article 5, Section 24; Regulations 19-102.03 and 19-104.02				2017-18	10.00	\$695.39	0.05	\$6,953.86	0.01%
				2018-19	15.00	\$410.81	0.04	\$6,162.19	0.01%
				2019-20	3.00	\$6,505.02	0.07	\$19,515.07	0.03%

Review Employee and Agency Fiduciary Bonds

(Agency Service #10)

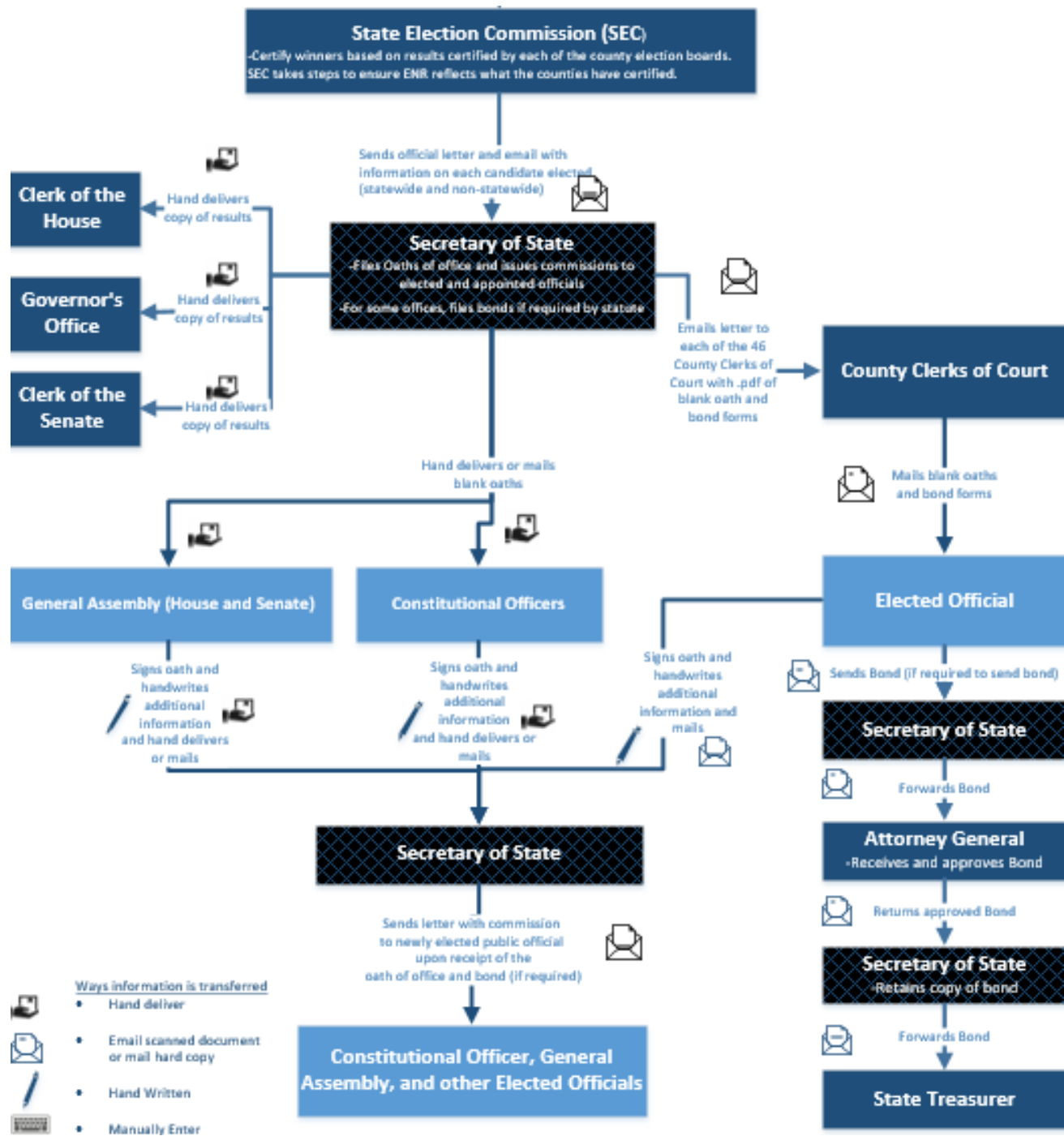
Background:

- Statute requires certain agency and government positions obtain bonds to cover losses from breach of those individual's fiduciary duty.
 - Includes statewide and local positions (e.g., sheriff, special state constable, etc.)
 - Note: Agencies have moved from obtaining individual bonds for multiple people to blanket bonds that cover the entire agency.

Service:

- Review employee and agency fiduciary bonds when received they are in the proper form and signed by the appropriate parties

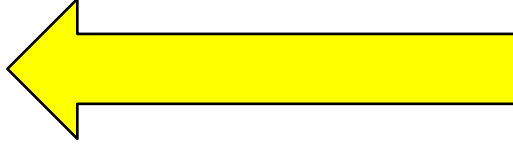
Does law require it: Yes	Purpose:	Customers:	Single Unit: Bonds reviewed	<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Assoc. Laws: Section 8-3-130; Section 8-3-140	Approve the form and execution of the bonds. This provides the necessary legal review to ensure the bond covers the liability for which the State is seeking protection	Secretary of State	2016-17	69.00	\$64.53	0.02	\$4,452.47	0.02%
			2017-18	30.00	\$144.46	0.02	\$4,333.67	0.01%
			2018-19	56.00	\$75.98	0.02	\$4,255.03	0.01%
			2019-20	45.00	\$432.91	0.06	\$19,481.09	0.03%



- Below is a chart from the Committee's study of the Secretary of State's Office.

- The arrow shows where the Attorney General fits in the process.

- Some are received electronically signed (e.g., typically the blanket agency bonds) and some are hard copy.



- The Attorney General only reviews ones it receives. It does not investigate whether it is receiving all that are to be sent to the Attorney General.

PROVIDE SERVICES TO SPECIFIC AGENCIES

Enforce Marketing Orders for Agriculture Commission and Commodity Board

(Agency Service #13)

Background:

- Agriculture Commission will have different Commodity Boards. The Commodity Boards will issue certain orders.
- If enforcement of the orders is ever needed, the AG can enforce it. There has not been any issue with the orders in a number of years.

Service:

- Upon the request of the Agriculture Commission and the commodity board, the Attorney General shall institute proceedings to enforce the remedies and to collect the moneys provided for by this chapter.
- There has not been a need to do this in several years.

Does law require it: Yes	Purpose:	Customers:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Assoc. Laws: Section 46-17-420	Institute proceedings against persons who have violated the provisions of the chapter.	Agriculture Commission and Commodity Board	Proceedings instituted	2016-17	0.00	0	0.00	\$0.00	0.00%
				2017-18	0.00	0	0.00	\$0.00	0.00%
				2018-19	0.00	0	0.00	\$0.00	0.00%
				2019-20	0.00	0	0.00	\$0.00	0.00%

Provide Services to Savannah River Maritime Commission

(Agency Service #18)

Background

- Commission was established by statute to represent the State in all matters pertaining to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels.

Service

- Provide professional services for the Savannah River Maritime Commission as required by statute
 - Annual Proviso authorizes expenditure for litigation expenses related to the Commission.
 - Form 1 approved.

Does law require it: Yes	Purpose: Provide professional and clerical services for the commission	Customers: Savannah River Maritime Commission	Single Unit: Approximate hours of service provided including attending meetings, reviewing documents, and giving legal advice		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Assoc. Laws: Section 54-6-10				2016-17	104.00	\$100.04	0.05	\$10,404.14	0.05%
				2017-18	104.00	\$103.29	0.05	\$10,742.64	0.02%
				2018-19	104.00	\$104.13	0.05	\$10,829.67	0.02%
				2019-20	82.16	\$71.25	0.02	\$5,854.14	0.01%

Provide services to S.C. Conservation Bank Board

(Agency Service #19)

- For a limited number of years, within a limited scope of work, agreed to provide services to the South Carolina Conservation Bank Board
 - Example: Attend board meetings, provide general corporate support, consulted as to when the S.C. Conservation Bank Board probably should engage outside counsel
- The Attorney General's Office began assisting the South Carolina Conservation Bank Board in FY17. The Conservation Bank Board now has a licensed attorney on staff.

Does law require it:	Purpose:	Customers:	Single Unit:	<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>	
No	Advise the South Carolina Conservation Bank Board in carrying out certain of their duties. That entity does not have in house counsel nor a budget for hiring an attorney, so the Agency serves those general purposes.	South Carolina Conservation Bank Board	Meetings attended	2016-17	0.00	0	0.00	\$0	0.00%
				2017-18	4.00	\$1,382.95	0.03	\$5,531.80	0.01%
				2018-19	3.00	\$1,849.45	0.03	\$5,548.35	0.01%
				2019-20	1.00	\$9,691.27	0.02	\$9,691.27	0.01%

Assoc. Laws: State Constitution Article 5, Section 24; Section 48-59-10

PROVIDE NOTICE TO AGENCIES

Whenever the State, or a state agency, is named in a lawsuit, the lawsuit must be served on the Attorney General, in addition to the state agency.

Notify Agencies about Lawsuits

- Notify agencies of receipt of lawsuits in which the agency is a party

Confirm Agencies are Notified about Foreclosures

- Confirm agencies have been served in foreclosures in which the agency is named
- When the State is named in the foreclosure, the Attorney General responds (see previous slides)

Agency Service #16: Notify Agencies about Lawsuits

Does law require it:	Customers:	Purpose:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
No	State agencies	Inform agencies of lawsuits against them as well as attempted compliance with South Carolina Rule of Civil Procedure 4(d)(5).	Copies of litigation received and forwarded to agencies	2016-17	414.00	\$28.59	0.16	\$11,836.84	0.06%
Assoc. Laws: South Carolina Rule of Civil Procedure 4(d)(5)	Section does not track the number of customers served			2017-18	513.00	\$17.37	0.21	\$8,912.70	0.01%
				2018-19	502.00	\$25.69	0.19	\$12,897.82	0.02%
				2019-20	457.00	\$57.37	0.17	\$26,218.83	0.03%

Agency Service #14: Notify Agencies about Foreclosures

Does law require it:	Customers:	Purpose:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
No	State agencies	Ensure agencies are aware of foreclosures in which they might have an interest.	Copies of foreclosure litigation received	2016-17	1,696.00	\$18.55	0.45	\$31,456.66	0.16%
Assoc. Laws: State Constitution Article 5, Section 24	Section does not track the number of customers served			2017-18	1,507.00	\$18.71	0.49	\$28,192.70	0.05%
				2018-19	1,367.00	\$22.12	0.42	\$30,238.22	0.05%
				2019-20	1,042.00	\$34.52	0.32	\$35,969.74	0.05%

Notify State Fiscal Accountability Authority's Division of Procurement Services about Bankruptcies

(Agency Service #15)

- When served with a bankruptcy, the Attorney General's Office sends the following information to Materials Management Office (MMO):
 - Case name
 - Last four digits of person's social security number or federal ID, if it is a company (this information is in the bankruptcy pleading)
- MMO determines if the individual or company has a contract with a state agency. If so, MMO sends the bankruptcy information to the applicable agency

Does law require it:	Purpose:	Customers:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
No	Allow agencies to determine if they need to file a proof of claim to attempt to recover any interest they may have.	State Agencies	Bankruptcy cases collated from bankruptcy mail received by the office and sent to Materials Management Office	2016-17	1,019.00	\$35.24	0.47	\$35,909.13	0.18%
				2017-18	1,234.00	\$31.26	0.60	\$38,579.12	0.06%
				2018-19	1,107.00	\$33.39	0.47	\$36,957.94	0.06%
				2019-20	1,443.00	\$42.75	0.38	\$61,688.11	0.08%

Assoc. Laws: State
Constitution Article 5, Section
24

Notify State Fiscal Accountability Authority's Insurance Reserve Fund about Verified Tort Claims

(Agency Service #17)

Background:

- Individuals have the option to file a verified claim before filing a lawsuit, to extend the statute of limitations
- Whenever a verified claim is filed, it must be filed with SFAA or the applicable agency. If the applicable agency is unknown or in doubt, it should be sent to the Attorney General.

Service:

- Notify the Insurance Reserve Fund when the Attorney General's Office receives verified tort claims

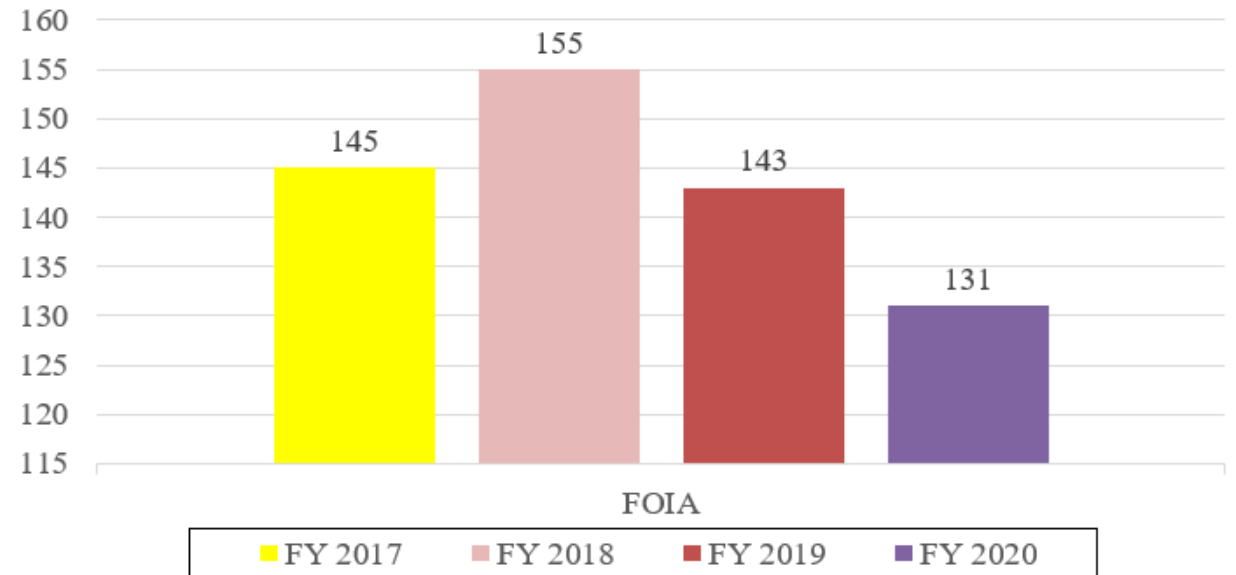
Does law require it:	Purpose:	Customers:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
No	Provide notice to the Insurance Reserve Fund of verified tort claims received by the Attorney General's Office.	Insurance Reserve Fund and State Agencies	Verified claims received and sent to the Insurance Reserve Fund	2016-17	53.00	\$111.51	0.07	\$5,910.17	0.03%
Assoc. Laws: Section 15-78-10 et seq.				2017-18	70.00	\$85.58	0.07	\$5,990.66	0.01%
				2018-19	62.00	\$112.09	0.07	\$6,949.33	0.01%
				2019-20	98.00	\$91.44	0.07	\$8,961.33	0.01%

Respond to Freedom of Information Act (FOIA) requests

(Agency Service #30)

- Respond to Freedom of Information Act requests sent to the Attorney General's Office within the statutory time frame by reviewing requests, gathering responsive documents, applying exemptions and/or redactions, and generating correspondence accordingly.

FOIA Requests Received



Does law require it:	Purpose:	Customers:	Single Unit:		Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
Yes	Provide access to public records and meetings	SC citizens; other individuals; and entities	Response Letter with Responsive Public Records, if any	2016-17	145.00	\$761.52	0.73	\$110,420.36	0.56%
Assoc. Laws: Section 30-4-10 through -110				2017-18	155.00	\$613.48	0.73	\$95,090.05	0.16%
				2018-19	143.00	\$495.00	0.72	\$70,785.63	0.11%
				2019-20	131.00	\$684.19	0.72	\$89,629.40	0.12%

Easements Granted by Department of Administration

(No Agency Service #)

Background:

- Deeds or other instruments conveying rights of way or easements over marshlands or vacant lands owned by the State are
 - Executed by the Governor in the name of the State,
 - After authorization by the Department of Administration,
 - After approval of the State Fiscal Accountability Authority, and
 - After approval by the office of the Attorney General

Service:

- Review and, when appropriate, approve easements over marshlands or vacant lands that are owned by the State

Does law require it: Yes	Purpose:	Customers:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Assoc. Laws: Section 1-11-100	Review and ,when appropriate, approve easements over marshlands or vacant lands that are owned by the State	The State	Easements reviewed	2016-17	0	\$0	0.0	\$0	0.0%
				2017-18	1	0	0.0	\$0	0.0%
				2018-19	12	0	0.0	\$0	0.0%
				2019-20	8	0	0.0	\$0	0.0%

Civil Asset Forfeitures

(No Agency Service #)

Background:

- Most relate to State Grand Jury seizures and drugs
- Occasionally assist the State Law Enforcement Division

Service:

- File actions for the confirmation of civil asset forfeitures

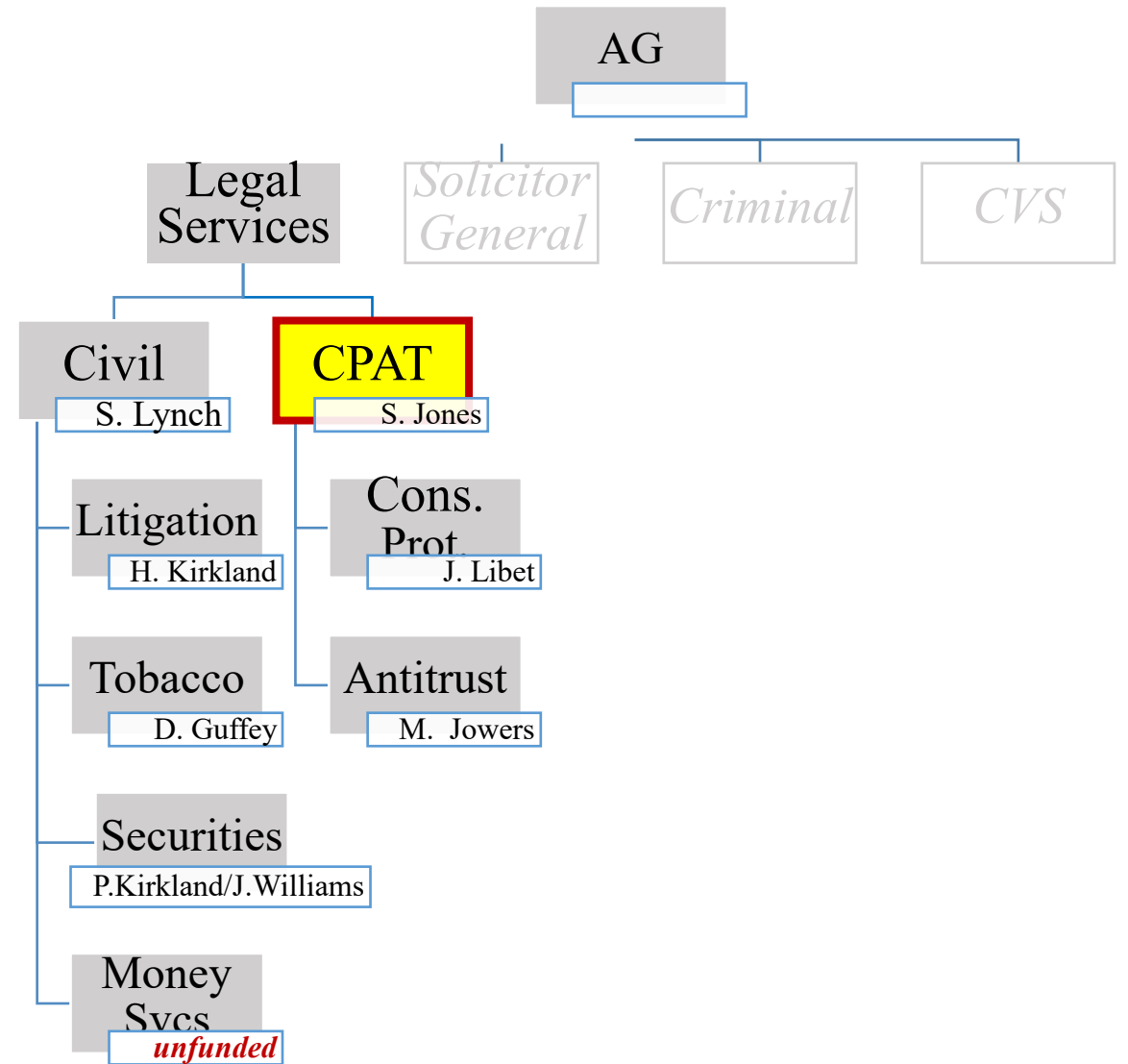
Does law require it:	Purpose:	Customers:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
No	Seek confirmation that seized assets should be declared forfeit	The State	Actions filed for confirmation of civil asset forfeitures	2016-17	N/A	\$0	0.0	\$0	0.0%
Assoc. Laws: Section 44-53-530				2017-18	N/A	0	0.0	\$0	0.0%
				2018-19	N/A	0	0.0	\$0	0.0%
				2019-20	N/A	0	0.0	\$0	0.0%

AGENCY PRESENTATION – CONSUMER PROTECTION
AND ANTITRUST



Consumer Protection and Antitrust Section

C.H. "Sonny" Jones, Jr.



Personnel

	Turnover	Number of Employees	
		Leave unit during year	In unit at end of year
2016-17	0%	0	10
2017-18	20%	2	10
2018-19	10%	1	10
2019-20	0%	0	10

Exit interviews or surveys conducted?

2016-17	Not applicable
2017-18	Yes
2018-19	Yes
2019-20	Not applicable

Employee satisfaction tracked?

2016-17	No
2017-18	Yes
2018-19	No
2019-20	No



Mission

Three-pronged mission:

- Protecting S.C. consumers from unfair and deceptive trade practices.
- Protecting S.C. consumers from anticompetitive practices and other antitrust violations.
- Ensuring the terms of charitable trusts are carried out.

Our standard: **Meritorious and compelling state interest**



Associated Services

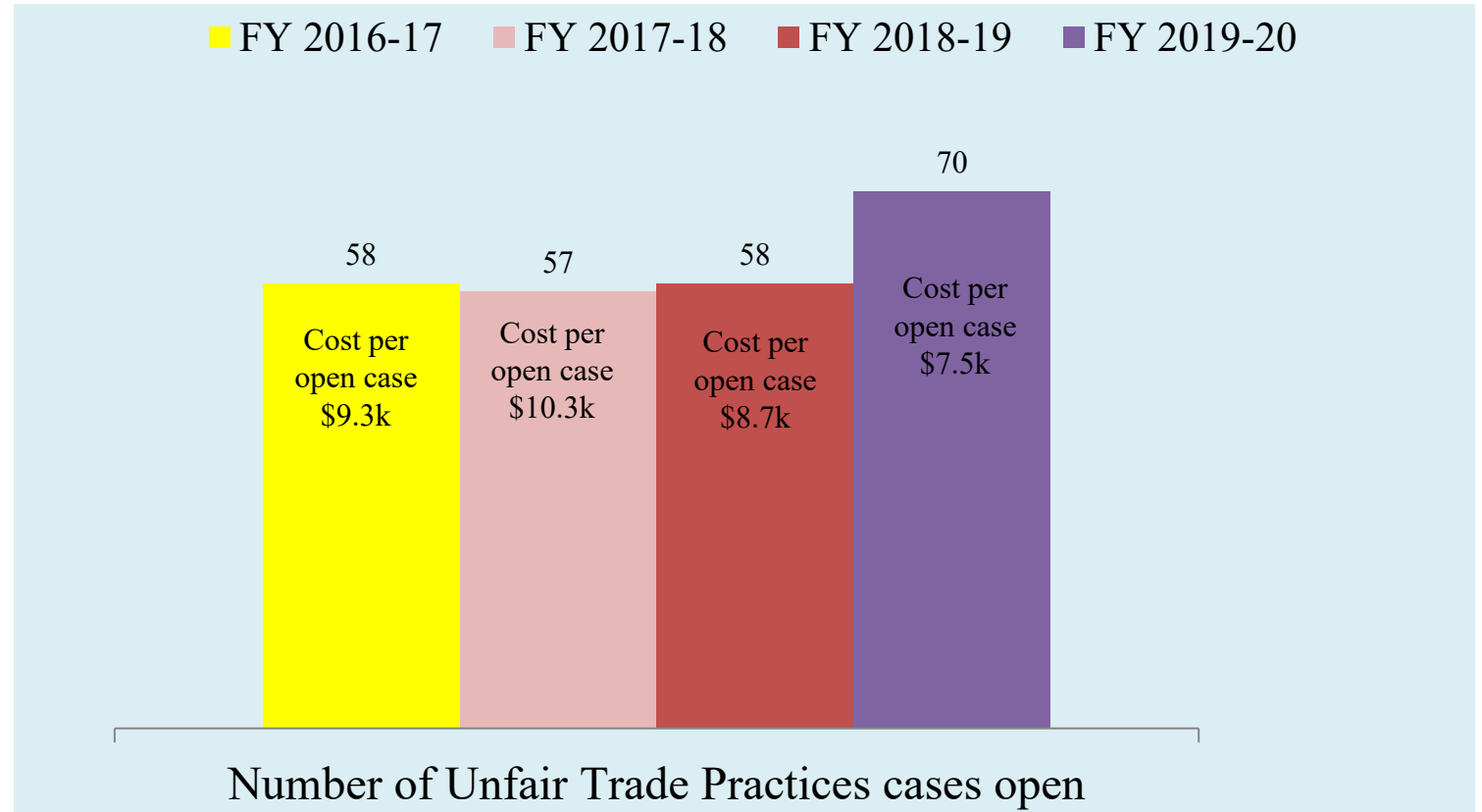
The next slides only contain information on services that are associated with this section of the agency.

Unfair and Deceptive Trade Practices – Unfair Trade Practices Act

(Agency Service #72)

Bring lawsuits

Represent the State, Attorney General’s Office, and select agencies in matters to enforce the South Carolina Unfair Trade Practices Act to protect the public from unfair and illegal trade practices



<u>Assoc. Law(s):</u>	<u>Does law require it:</u>
Section 39-5-10, et seq.	Yes
<u>Customers:</u>	
State of South Carolina	

Units Provided & Costs to Provide:

<i>NOTE: Employee equivalents means number of employees required (37.5 hour per week units)</i>	<u>Single Unit</u>		<u>Units Provided*</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
	Number of Unfair Trade Practices cases open	2016-17	70.00	\$7,497.93	5.95	\$524,855.14	2.67%
		2017-18	58.00	\$8,704.17	5.95	\$504,841.83	0.85%
	*Numbers were transposed on the PER, correct numbers are in this slide	2018-19	57.00	\$10,301.23	5.75	\$587,170.36	0.88%
		2019-20	58.00	\$9,313.51	5.00	\$540,183.77	0.70%



Unfair Trade Practices Act: Private Action v. Enforcement Action

Private Action:

Brought by:

- Private Citizen
- State or Local Entity
 - Agency can be represented by AG

Requires:

- Citizen suffer an actual loss, injury, or damage, and
- Causal connection between the injury-in-fact and the complained of unfair or deceptive acts or practices.

Class actions are not permitted.

Enforcement Action:

Brought by:

- Attorney General's Office

Requires:

- Public interest be involved, and
- Showing of a "tendency to deceive"
 - Requisite capacity to deceive can be found without evidence that anyone was actually deceived

Example:

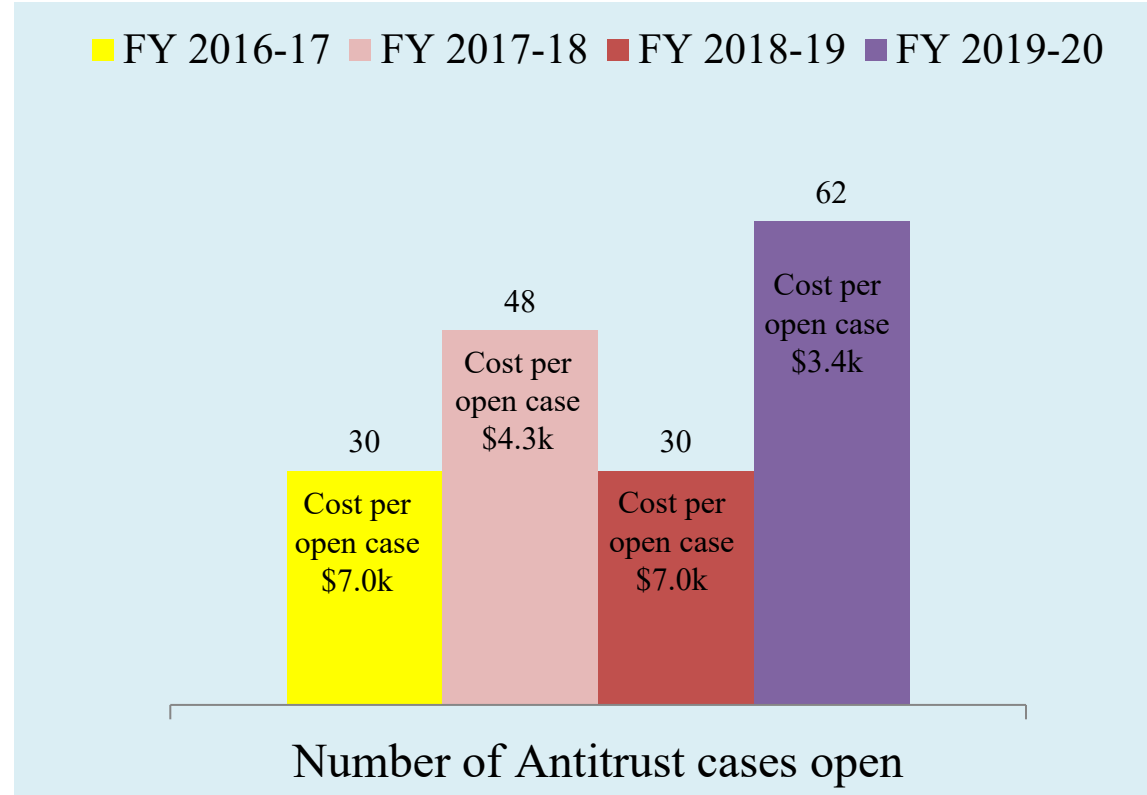
It is in the public interest to prevent the use of false and misleading statements in the conduct of business ... [and] actual deception need not be shown; a finding of a tendency to deceive and mislead will suffice."

Unfair and Deceptive Trade Practices – Antitrust Cases

(Agency Service #73)

Bring lawsuits

Enforce the state and federal antitrust statutes in cases where South Carolina citizens are directly impacted to protect the State against antitrust violations, to protect the public from unfair and illegal trade practices and ensure a competitive marketplace.



<u>Assoc. Law(s):</u>	<u>Does law require it:</u>
Section 39-3-10, et seq.	Yes
<u>Customers:</u>	
State of South Carolina	

Units Provided & Costs to Provide:

<i>NOTE: Employee equivalents means number of employees required (37.5 hour per week units)</i>	Single Unit		Units Provided*	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
	Number of antitrust cases open	2016-17	62.00	\$3,427.94	1.83	\$212,532.00	1.08%
		2017-18	30.00	\$7,010.19	2.24	\$210,305.74	0.35%
	*Numbers were transposed on the PER, correct numbers are in this slide	2018-19	48.00	\$4,334.99	2.06	\$208,079.49	0.31%
		2019-20	30.00	\$7,010.84	2.15	\$210,325.20	0.27%



Unfair and Deceptive Trade Practices

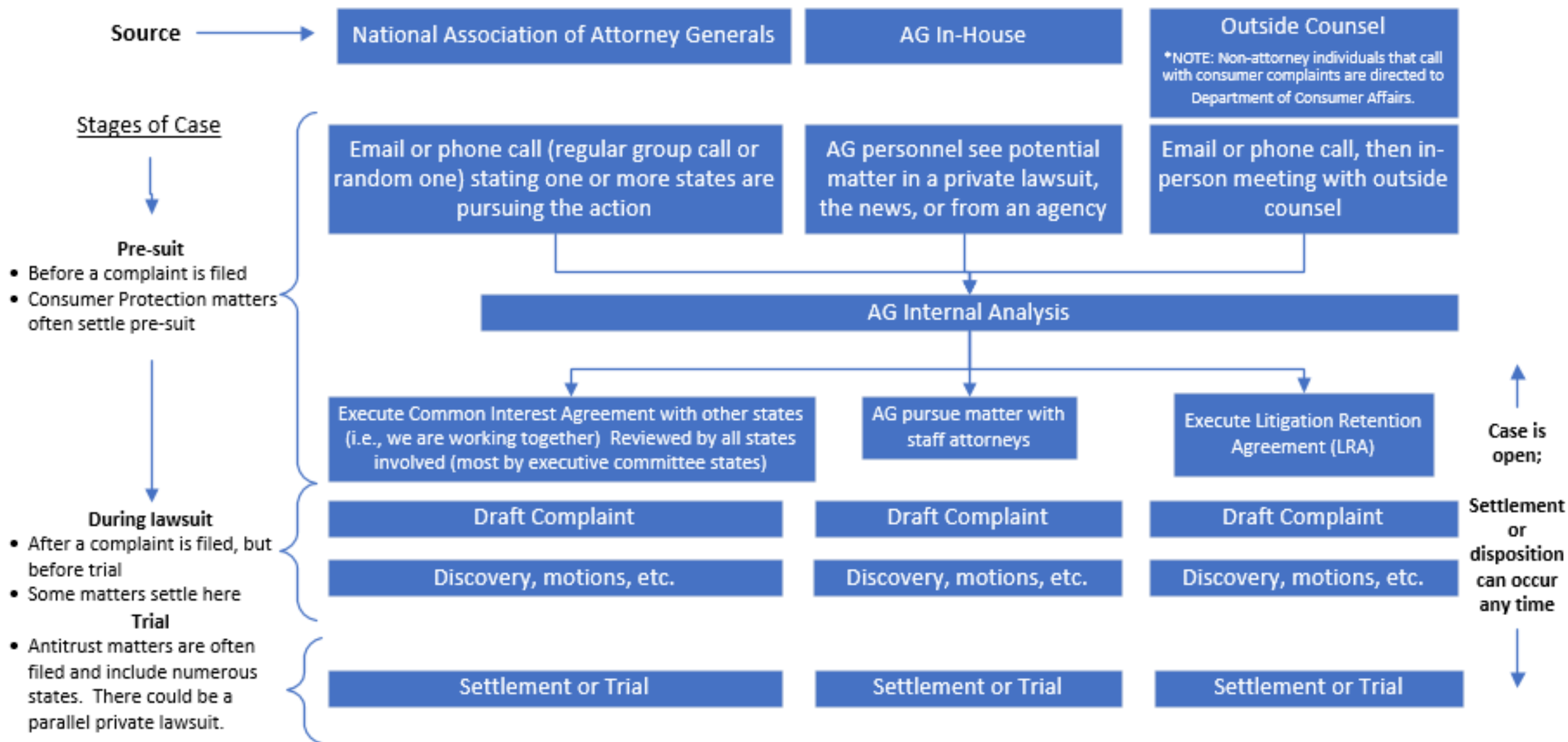
Unfair Trade Practices Act and Antitrust Lawsuits

Sources of potential lawsuits

- AG personnel see potential matter from one of the following:
 - notice of private lawsuit claiming violation of S.C. Trade Practices Act from County Clerks of Court (Agency Service #83 – Clerks of Court required to send, see Section 39-5-140(b))
 - news, or
 - an agency
- Outside counsel brings potential case directly to AG
- National Association of Attorney Generals member email or call (regular group call or special one) stating one or more states are pursuing an action (See “Work with other states” for additional information)

Unfair Trade Practice and Antitrust Cases

Sources and Stages of Case



Unfair and Deceptive Trade Practices

Unfair Trade Practices Act and Antitrust Lawsuits

In outside counsel cases, there is a decision to make:

1. Do not take the case; or
2. Take the case, serve as supervising attorney, and...
 - A. have in-house attorneys do all the work, or
 - B. hire outside attorneys to assist with the work

Even when outside counsel approaches the Office, the Office may decide to handle a case internally or in connection with a multistate.

Factors considered when deciding whether to hire outside counsel

- Resources needed to investigate and litigate the case fully,
- Whether particular expertise in certain areas of law (e.g., bankruptcy, environmental) is needed,
- Potential outside counsel's familiarity with a large, complicated matter (such as opioids), and
- Whether State's interests are best served by reallocating the risk of no recovery to outside counsel (and spreading that risk among multiple law firms).

Note: Every case involves an investment of resources involved and no guarantee of the result desired

- Information learned from presentations from potential defendants.

Attorney General continually reviews and evolves Litigation Retention Agreements

- During a prior House Legislative Oversight Committee study, the Committee recommended the process related to drafting and approving litigation retention agreements and settlement agreements be addressed during the House Legislative Oversight Committee's study of the Office of the Attorney General.

- Modified the fee table and percentages:
 - Outside counsel may now receive a percentage of civil penalties.
 - Punitive damages are not handled separately but are combined with the total.
 - Generally lowered the percentages awarded and modified the brackets to which those percentages apply, recognizing the possibility of very large monetary recoveries.
 - Allowed the AG to reduce fees by up to 50% for an early settlement.
 - Required the AG to approve the fee distribution among multiple outside law firms.
- Added a requirement that outside counsel handle appellate proceedings (with a small contingent fee increase for that).
- Added a requirement that outside counsel represent the Office in the event we are sued regarding the LRA, for an hourly fee.
- Removed language where the AG kept 10% of outside counsel's fees.
- Added reimbursement of the AG's costs.
- Allowed outside counsel to use an eDiscovery platform and contract lawyers to review documents (with AG approval).

Additional Evolution Occurring

In the event the Attorney General terminates this Agreement without cause, Special Counsel shall be reimbursed only from the litigation's gross recovery for all properly documented expenses and costs, as defined in Article V of this Agreement rendered prior to termination, and Special Counsel shall be awarded appropriate attorneys' fees as determined by the Attorney General.

- In the event the AG fires outside counsel without cause, those lawyers are still legally entitled to attorney's fees and costs on a *quantum meruit* basis.
- The AG would then determine a fair fee based on the work performed and pay that to former outside counsel.
 - No fees would be paid at all unless there is a monetary recovery.
- While the AG would never pay more under this paragraph than the contract rates, our Office will amend this language to clarify that.

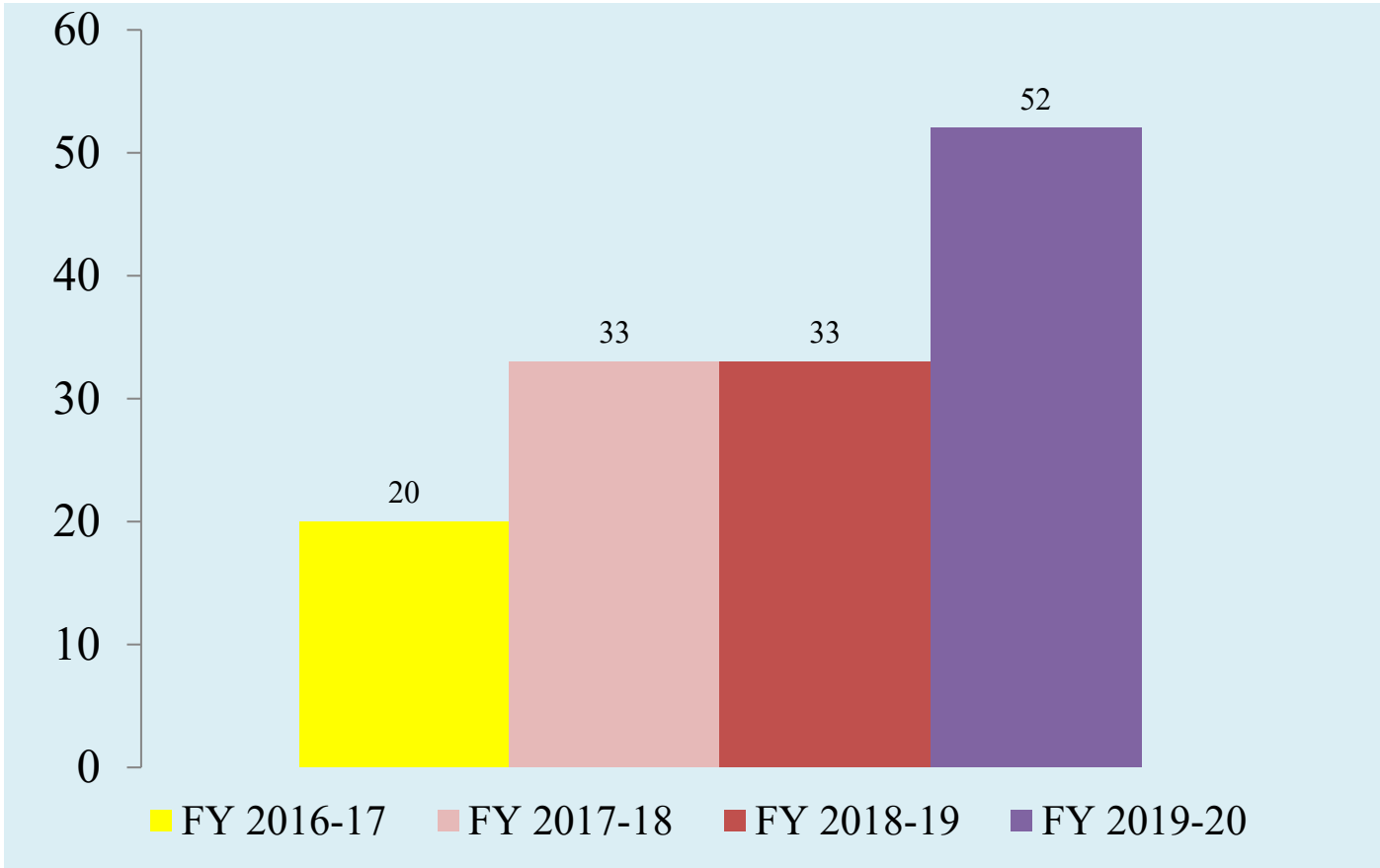
Review CPAT-related Matters on which AG is Requested to Sign-On

(Agency Service #88)

- 2 situations
 - Another state files an amicus brief supporting a position argued to a court
 - Another state sends a letter supporting a position to a federal agency, Congress, etc.

- AG determines whether South Carolina will sign on to support the position as the issue may impact South Carolina

- Examples*:
 - Robocalls
 - Opioids



*Only relates to CPAT issues

Note: Employee equivalents and costs for 2019-20 will be updated after the presentation.

Single Unit		Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
Number of Recommendations	2016-17	20.00	\$2,259.91	0.59	\$45,198.21	0.23%
	2017-18	33.00	\$1,461.54	0.61	\$48,230.74	0.08%
	2018-19	33.00	\$1,448.87	0.58	\$47,812.86	0.07%
	2019-20	52.00	\$0.00	0.00	\$0.00	0.00%

Other Acts the AG Investigates and Enforces

(Agency Service #80 and 81)

Health Care Cooperative Agreements

See, S.C. Code Sections 44-7-520(A) and 44-7-550 (1994 Act No. 437 § 1)

- Review applications for health care cooperative agreements when referred by the Department of Health and Environmental Control (DHEC).
- Why review the agreements? The state direction, supervision, regulation, and control of cooperative agreements provide immunity for health care providers, health provider networks, or purchasers who participate in discussions or negotiations authorized by this article from civil liability and criminal prosecution under federal or state antitrust laws.
- There have been no referrals from DHEC since at least fiscal year 2017.

Telephone use

See, S.C. Code Section 37-21-90

- Enforce the S.C. Telephone Privacy Protection Act to preclude telephone solicitation to a number on the National Do Not Call Registry maintained by the federal government pursuant to the Telemarketing Sales Rule
- To protect citizens and the State from violations of the Act
- The AG has reviewed no matters since the Act became effective May 18, 2018. The AG is allowed, but not required to review matters.

Other Acts the AG Investigates and Enforces

(Agency Service #82 and 85)

Assertions of Patent Infringement

See, S.C. Code Section 39-4-130

- Enforce the Bad Faith Assertion of Patent Infringement Act by requiring the posting of bonds
- To protect the State and citizens from bad faith assertions of patent infringement.
- The AG has reviewed no matters since the Act became effective July 1, 2016. The AG is allowed, but not required to review matters.

Sale, rental and lease of motor vehicles

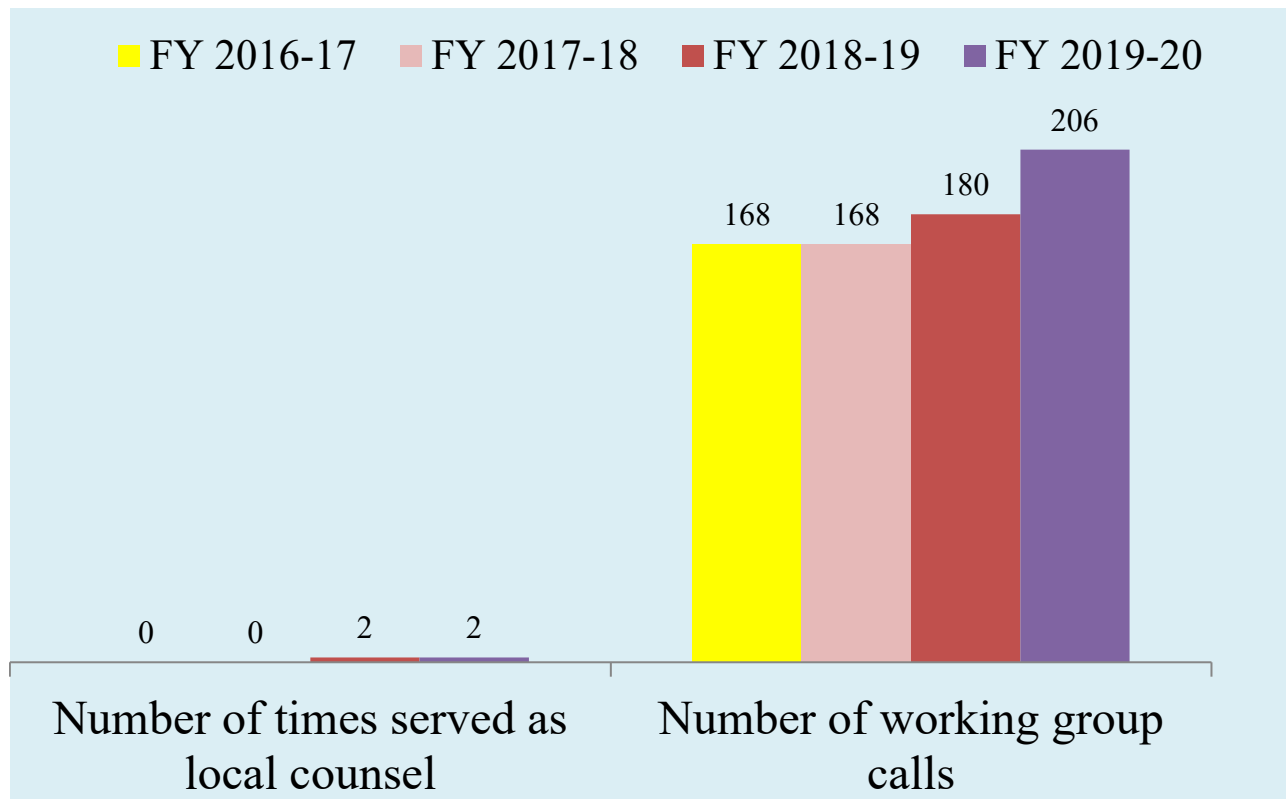
See, S.C. Code Section 56-15-40(5)

- Serve as Administrator under the Motor Vehicle Act to investigate, issue cease and desist orders and injunctive relief on any valid abuse of the Act
- To protect citizens in connection with the sale, rental, and lease of motor vehicles and to protect the public interest
- The AG has taken no action as administrator from fiscal year 2017 through fiscal year 2020.

Work with Other States

(Agency Service #74 and 87)

- Aid by serving as local counsel to other state Attorney General Offices and assist with their litigation in S.C. when they are admitted pro hac
- Participate in working group calls.
 - AG may be a lead, on the executive committee, a participating state, or simply monitoring.
 - Degree of participation is dependent upon the status and the needs of S.C. citizens.
 - Purpose is to maintain awareness of activity in other states and work collaboratively to assess national trends and their application within S.C.



<u>Assoc. Law(s):</u>	<u>Does law require it:</u>
	No
<u>Customers:</u>	
State of South Carolina	

<u>Units Provided & Costs to Provide:</u>

<i>NOTE: Employee equivalents means number of employees required (37.5 hour per week units)</i>	<u>Single Unit</u>	<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>	
	Working Group Calls	2016-17	168.00	\$135.81	0.22	\$22,816.80	0.12%
		2017-18	168.00	\$127.91	0.22	\$21,488.27	0.04%
		2018-19	180.00	\$120.87	0.26	\$21,756.37	0.03%
		2019-20	206.00	\$251.90	0.58	\$51,891.54	0.07%

Charitable Trusts

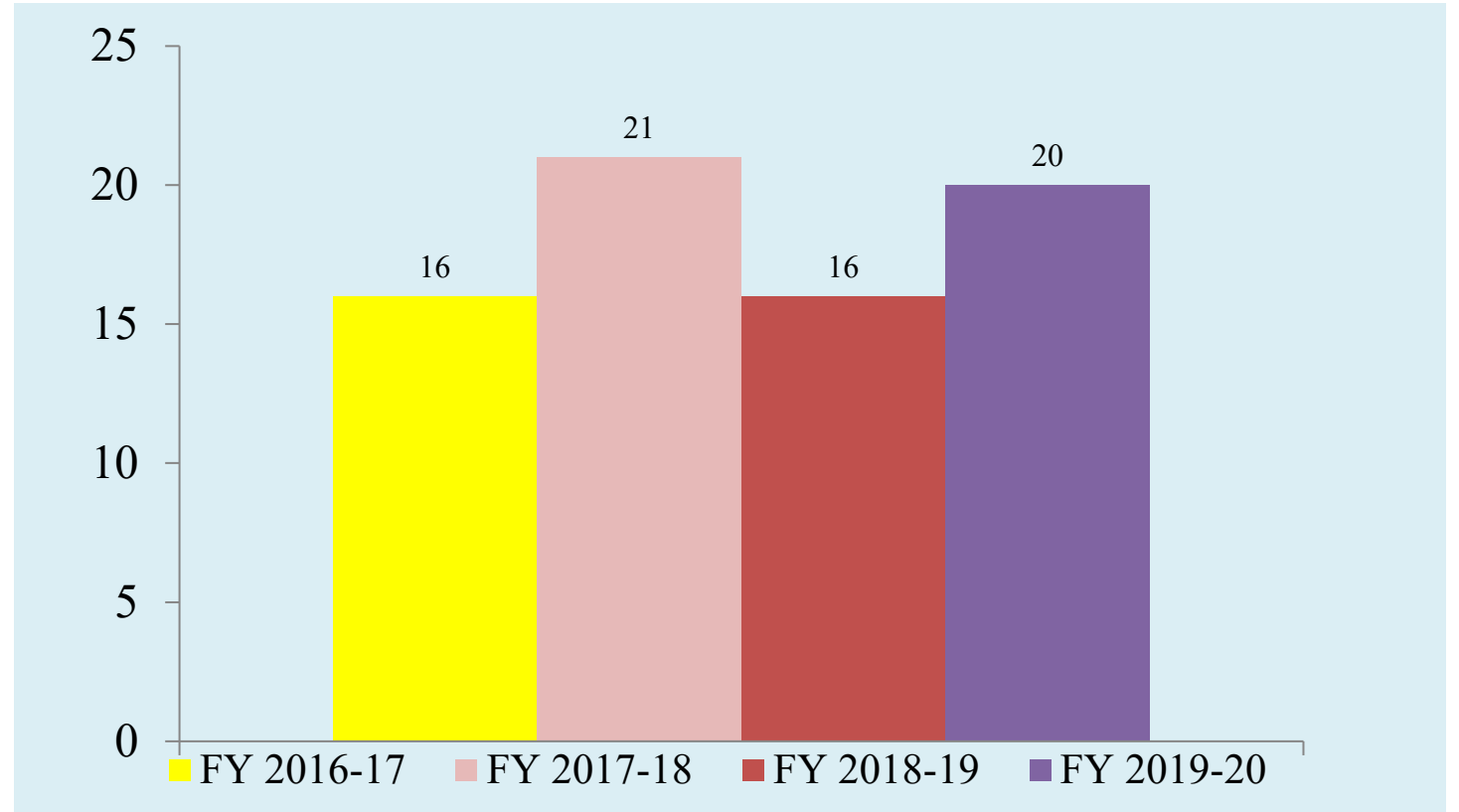
(Agency Service #76)

Bring and Defend lawsuits

Protect public charities and charitable trusts when questions arise as to conflicts of interest, breach of fiduciary duty, and other violations. Enforce charitable trusts to ensure the donor's intent is achieved.

What is a charitable trust?

Trust created for a charitable purpose which is beneficial to the community.



<u>Assoc. Law(s):</u>	<u>Does law require it:</u>
Section 1-7-130	Yes
<u>Customers:</u>	
State of South Carolina	

Units Provided & Costs to Provide:

NOTE: Employee equivalents means number of employees required (37.5 hour per week units)

	<u>Single Unit</u>		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
	Number of charitable trust cases open	2016-17	16.00	\$5,788.55	0.75	\$92,616.75	0.47%
		2017-18	21.00	\$4,923.97	0.80	\$103,403.36	0.17%
		2018-19	16.00	\$6,869.75	0.71	\$109,915.99	0.16%
		2019-20	20.00	\$5,683.40	0.86	\$113,668.04	0.15%

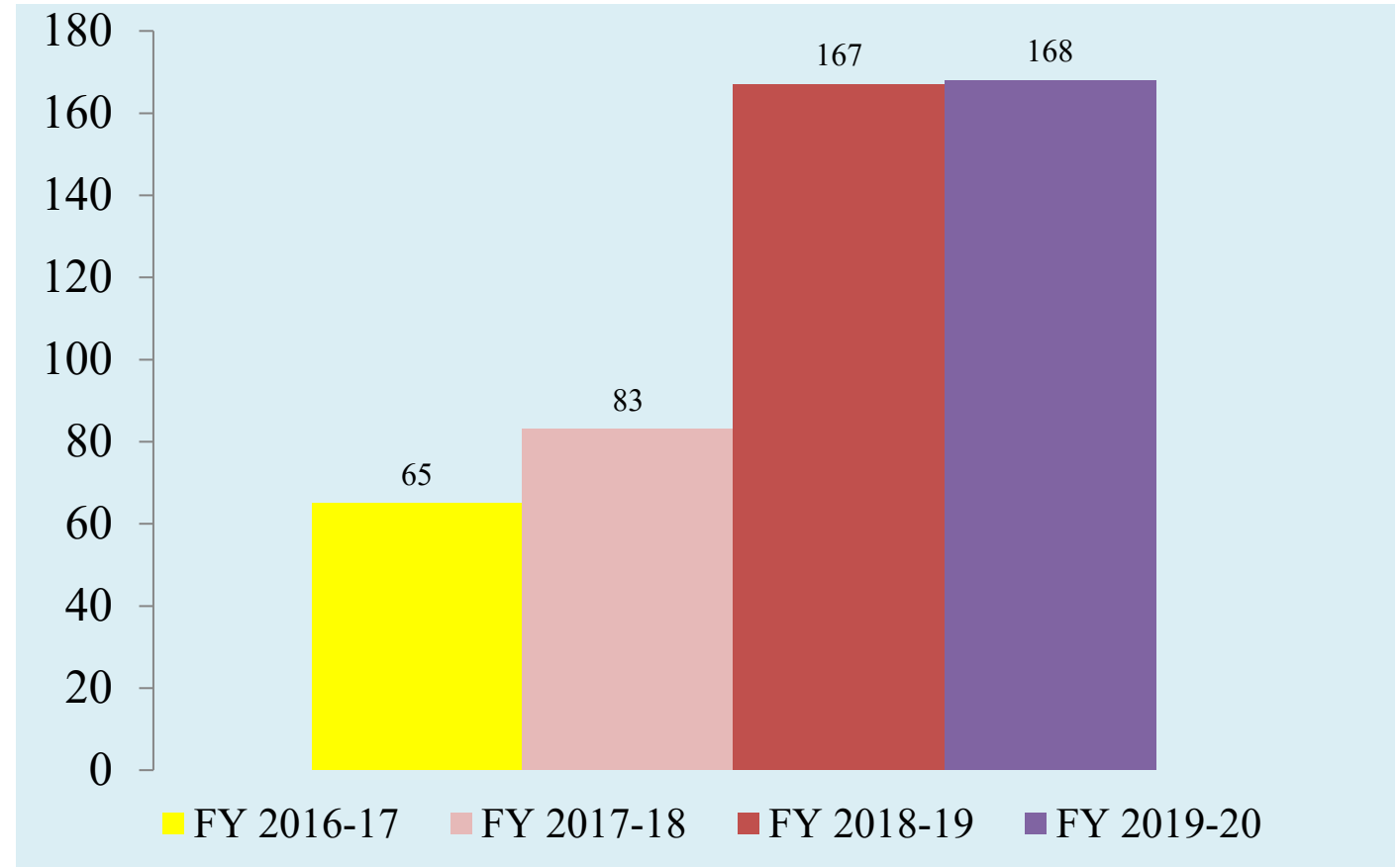
Nonprofit Corporations – Dissolutions and Sales

(Agency Service #78)

Receive and Review

- Receive and review notices of nonprofit dissolutions and sales of certain nonprofit assets to make sure nonprofits are properly and legally dissolved

Note: Upon review, the recent spike could be because the Secretary of State is increasingly proactive in making sure the Attorney General gets notice.



<u>Assoc. Law(s):</u>	<u>Does law require it:</u>
Section 33-31-1403	Yes
<u>Customers:</u>	
State of South Carolina	

Units Provided & Costs to Provide:

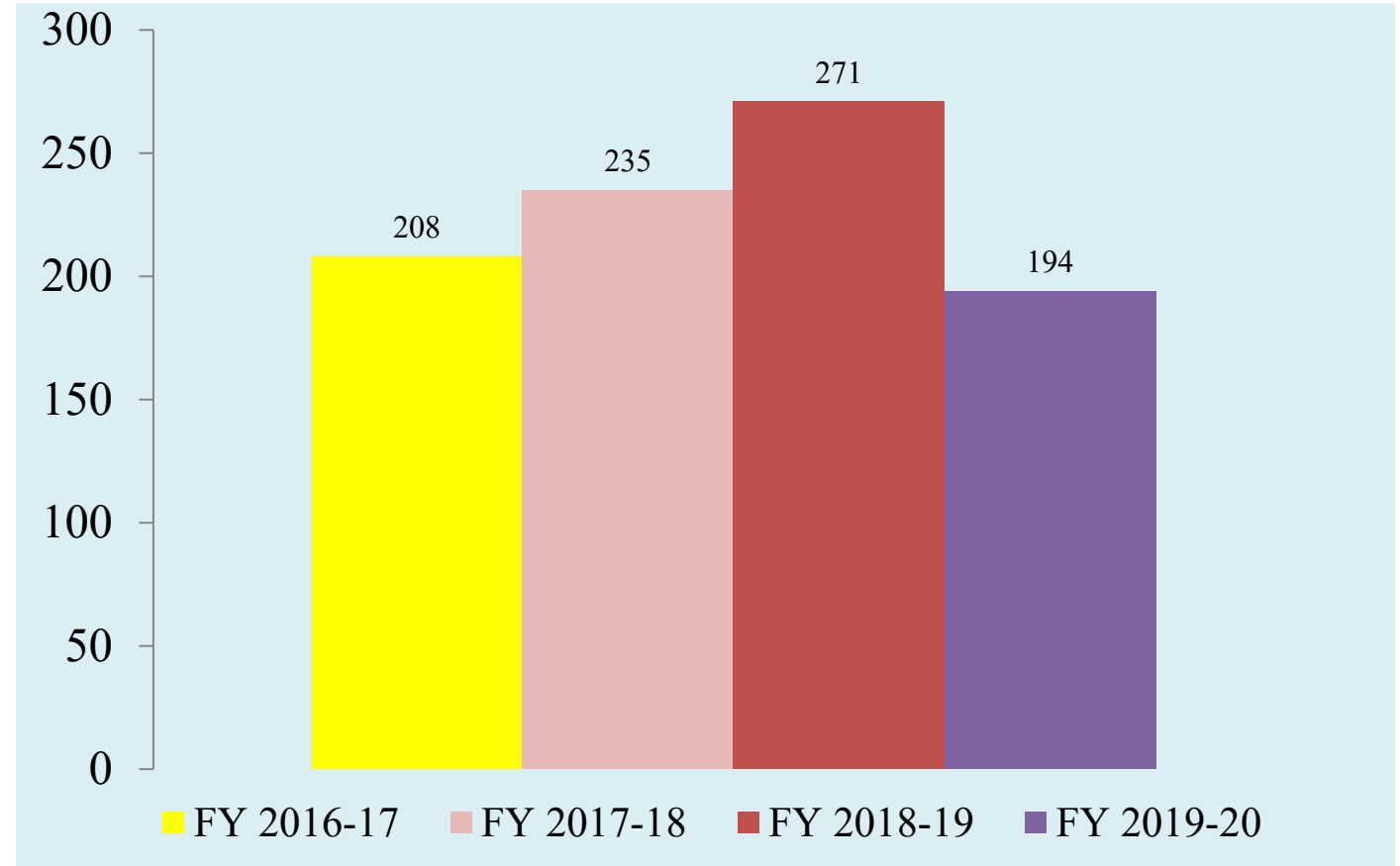
<i>NOTE: Employee equivalents means number of employees required (37.5 hour per week units)</i>	<u>Single Unit</u>		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Number of notices received and reviewed	2016-17	65.00	\$366.98	0.39	\$23,853.38	0.12%	
	2017-18	83.00	\$350.67	0.39	\$29,105.34	0.05%	
	2018-19	167.00	\$175.89	0.29	\$29,373.34	0.04%	
	2019-20	168.00	\$204.32	0.49	\$34,326.10	0.04%	

Federal Tax Form 990 for Foundations

(Agency Service #86)

Receive and Review

- Federal regulations require private foundations send these forms to the Attorney General's Office. There is no state law requirement that they be sent to the Office.
- “ . . . every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe . . .” 26 USCA § 6033(a)(1).



<u>Assoc. Law(s):</u>	<u>Does law require it:</u>
26 C.F.R. § 1.6033-3(c)(1)	Yes
<u>Customers:</u>	
State of South Carolina	

<u>Units Provided & Costs to Provide:</u>

	<u>Single Unit</u> Number of 990s received	<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>	
<i>NOTE: Employee equivalents means number of employees required (37.5 hour per week units)</i>							
	Note: Employee equivalents and costs for 2019-20 will be updated after the presentation.	2016-17	208.00	\$2.01	0.05	\$418.19	0.00%
		2017-18	235.00	\$1.78	0.05	\$418.19	0.00%
		2018-19	271.00	\$1.54	0.05	\$418.19	0.00%
		2019-20	194.00	\$0.00	0.00	\$0.00	0.00%

Nonprofit Corporations – Conduct and Management

(Agency Service #77)

Investigate and Enforce

Investigate the conduct and management of nonprofits to protect the public from nonprofits that are violating the S.C. Nonprofit Corporations Act.

See process on next slide

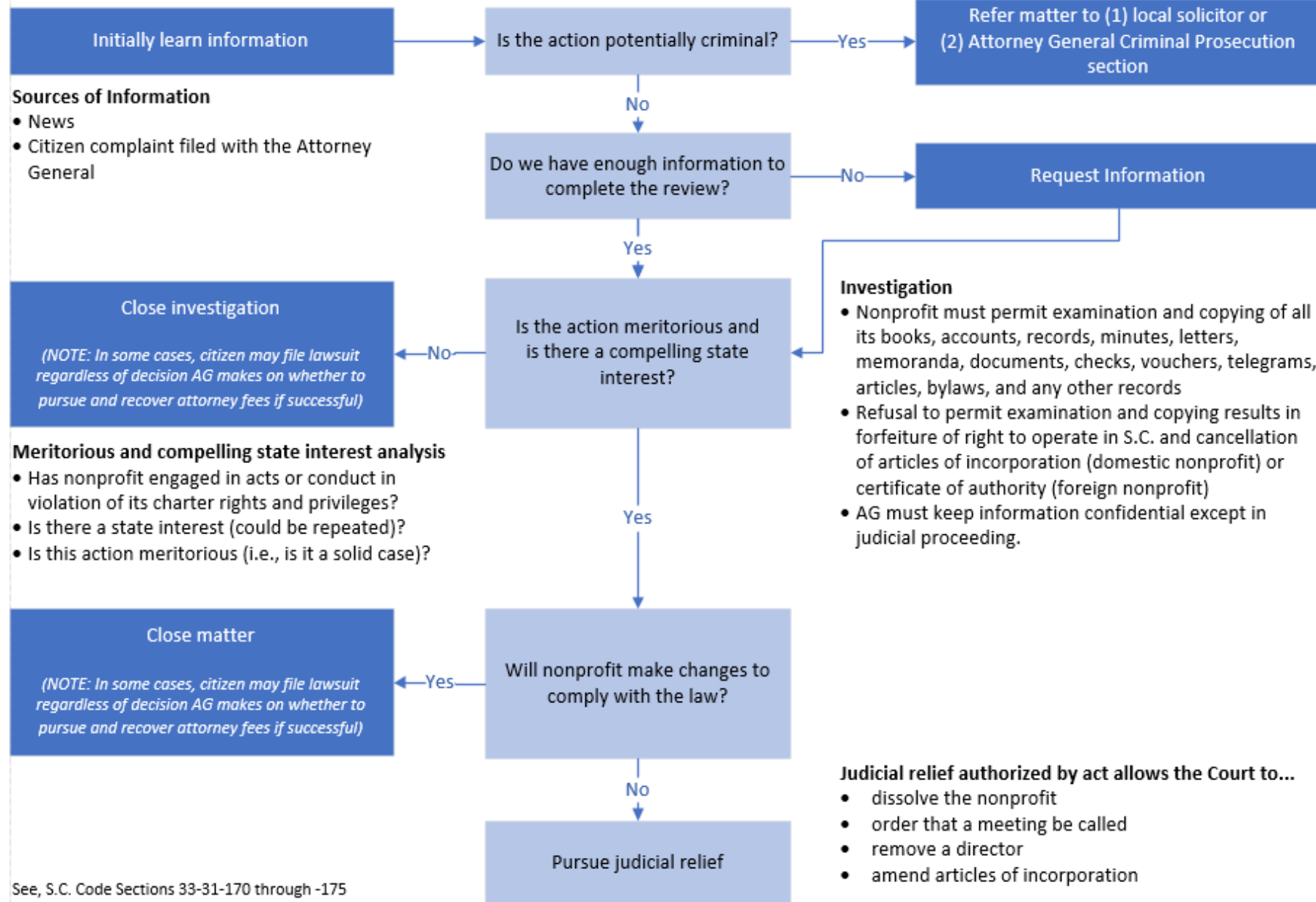
<u>Assoc. Law(s):</u>	<u>Does law require it:</u>
Section 33-31-171	No
<u>Customers:</u>	
State of South Carolina	

Units Provided & Costs to Provide:

<i>NOTE: Employee equivalents means number of employees required (37.5 hour per week units)</i>	<u>Single Unit</u>	<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>	
	Number of investigations open pursuant to statute	2016-17	1.00	\$11,335.82	0.15	\$11,335.82	0.06%
		2017-18	0.00	Insufficient data provided.	0.00	\$0.00	0.00%
		2018-19	1.00	\$16,268.20	0.10	\$16,268.20	0.02%
		2019-20	2.00	\$1,067.55	0.01	\$2,135.09	0.00%

S.C. Nonprofit Corporation Act Investigations

Attorney General's Office analysis of whether to move forward with investigation

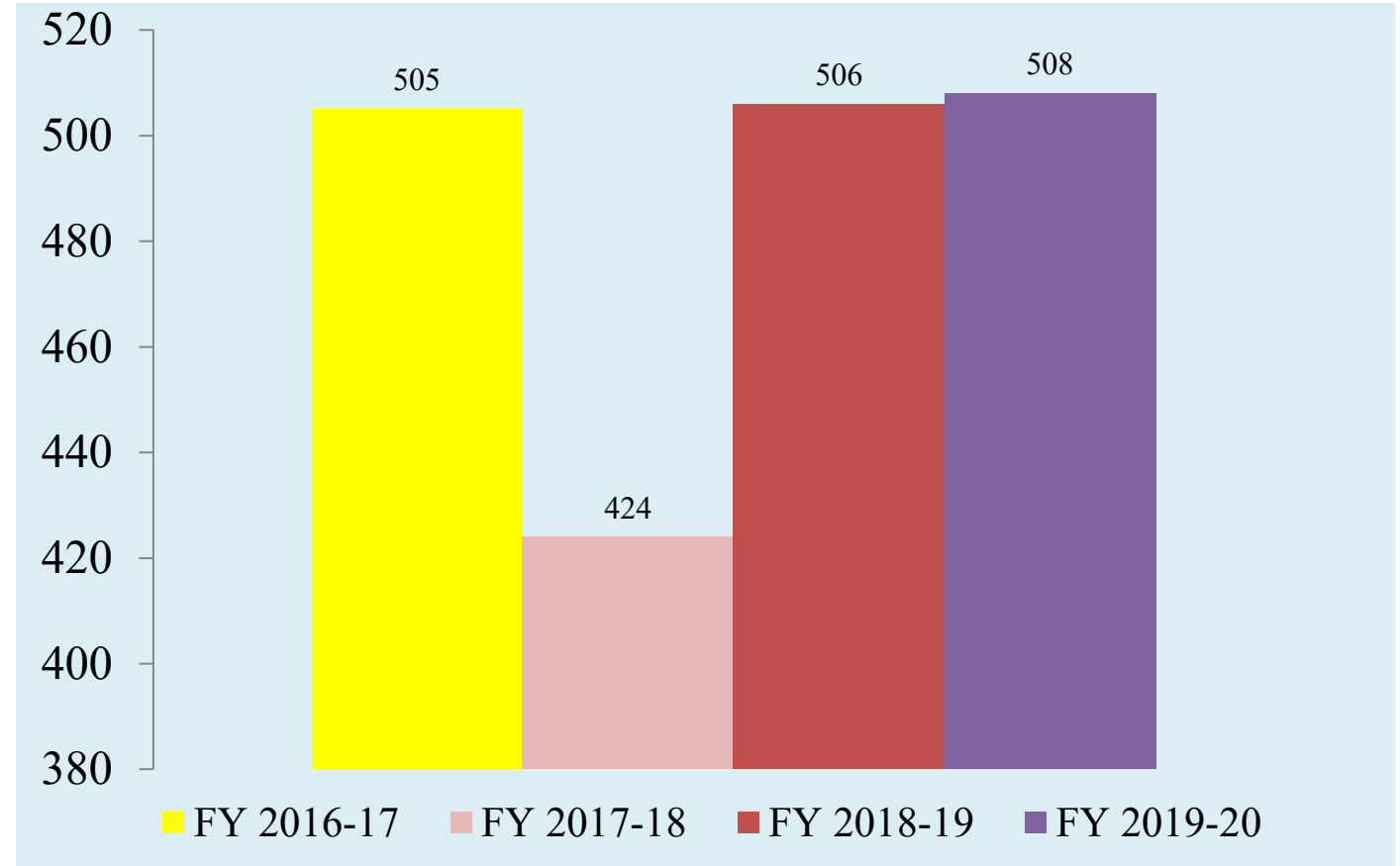


Class Action Settlements in Private Lawsuits

(Agency Service #75)

Receive and Review

Review settlements under the Class Action Fairness Act to ensure fairness to the class action members, many of whom are uninvolved in the settlement but may be bound by its outcome.



<u>Assoc. Law(s):</u>	<u>Does law require it:</u>
28 U.S. Code § 1715	Yes
<u>Customers:</u>	
State of South Carolina	

Units Provided & Costs to Provide:

NOTE:

Employee equivalents means number of employees required (37.5 hour per week units)

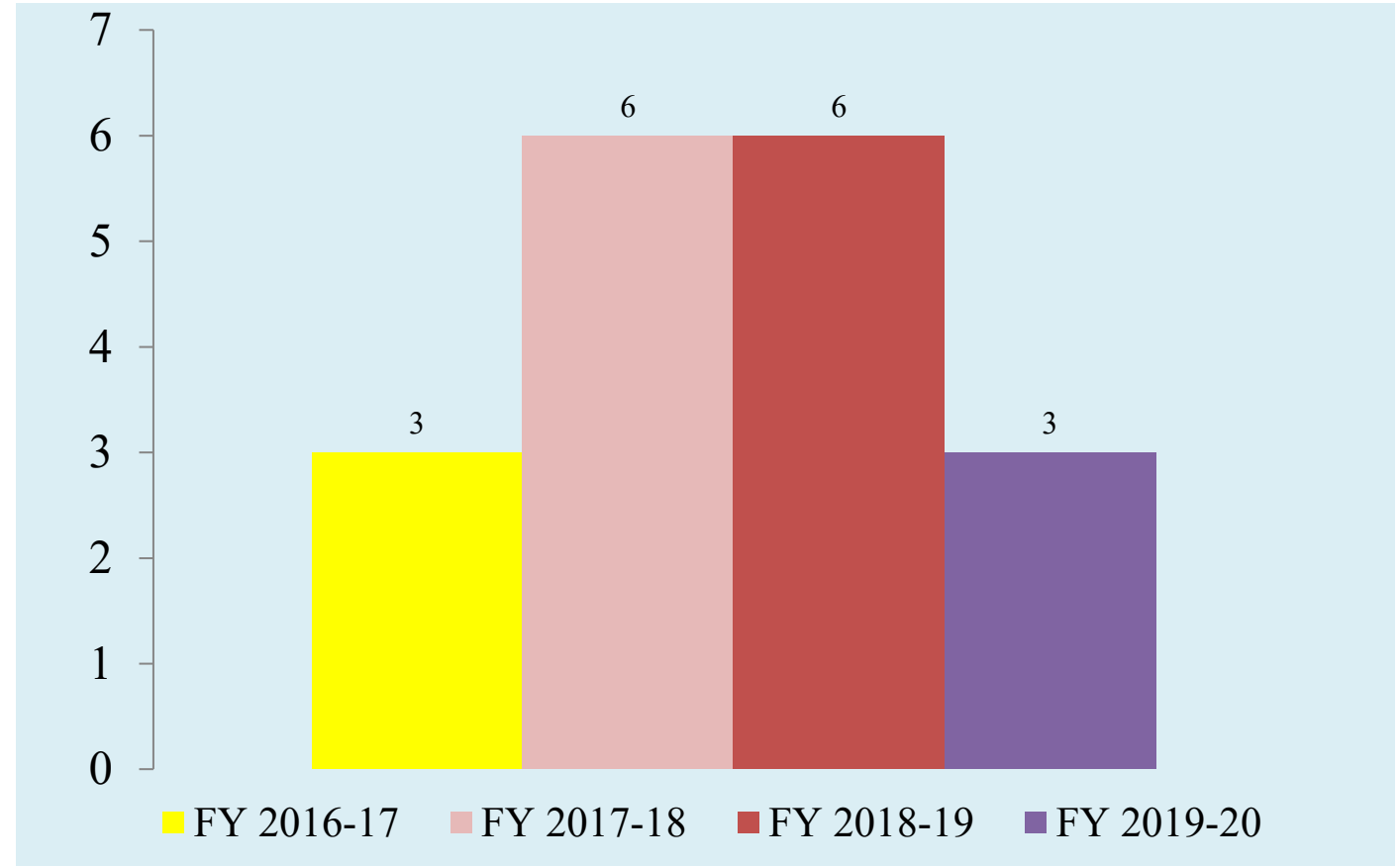
	<u>Single Unit</u>	<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
2016-17	Number of Class Action Settlements received and reviewed	505.00	\$55.34	0.15	\$27,947.81	0.14%
2017-18		424.00	\$66.04	0.40	\$27,999.50	0.05%
2018-19		506.00	\$47.57	0.40	\$24,068.92	0.04%
2019-20		508.00	\$60.71	0.45	\$30,841.86	0.04%

Data Breach Letters

(Agency Service #84)

Receive, Return, and Redirect

- Receive and redirect data breach notice letters to the Department of Consumer Affairs.
- Per the statute, these notices are to be sent to the Consumer Protection Division of the South Carolina Department of Consumer Affairs.
- Sometimes they are incorrectly sent to the Attorney General's Office. If that happens, the AG notifies the entity that the notice should be sent to the S.C. Department of Consumer Affairs.



<u>Assoc. Law(s):</u>	<u>Does law require it:</u>
Section 39-1-90(k)	Does not require AG
<u>Customers:</u>	
State of South Carolina	

<u>Units Provided & Costs to Provide:</u>

	<u>Single Unit</u> Number of data breach letters received	<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>	
<i>NOTE: Employee equivalents means number of employees required (37.5 hour per week units)</i>		2016-17	3.00	\$303.04	0.01	\$909.12	0.00%
	Note: Employee equivalents and costs for 2019-20 will be updated after the presentation.	2017-18	6.00	\$151.52	0.01	\$909.12	0.00%
		2018-19	6.00	\$151.52	0.01	\$909.12	0.00%
		2019-20	3.00	\$0.00	0.00	\$0.00	0.00%



Law Recommendations

The next slides only contain information on recommendations for law changes that are associated with this section of the agency.

LAW CHANGE RECOMMENDATION #6

- Law: S.C. Code Section 1-7-117 - Duties of Division of Public Charities devolved upon Attorney General.
- Current Law: Devolved duties, functions, and responsibilities of the Public Charities Division to the Attorney General's Office in 1996.
- Recommendation: Repeal entire statute
- Basis for Recommendation: 1998 Act No. 368 devolved the duties, functions, and responsibilities of the Public Charities Section of the Attorney General's Office upon the Secretary of State's Office on July 1, 1998. The Public Charities Division has remained with the Secretary of State's Office since that time, and Section 1-7-117 is no longer accurate.

NOTE: This issue was previously addressed in the Secretary of State's Legislative Oversight review. There is pending legislation for this correction

SECTION 1-7-117. Duties of Division of Public Charities devolved upon Attorney General.

(A) The duties, functions, and responsibilities of the Division of Public Charities of the office of the Secretary of State are devolved upon the Attorney General's office on July 1, 1996. All personnel, appropriations, and full-time equivalent positions of the Division of Public Charities also are transferred to the Attorney General's office on July 1, 1996.

(B) The Attorney General shall administer the "South Carolina Solicitation of Charitable Funds Act" as contained in Chapter 56 of Title 33 of the 1976 Code.

HISTORY: 1996 Act No. 458, Part II, Section 28A, B.

LAW CHANGE RECOMMENDATION #7

- Law: S.C. Code Section 44-11-110. Easements and rights of way on grounds of facilities.
- Current Law: Requires written approval from the Attorney General for any grant of easements, permits or rights of way on, over or under the grounds of Department of Mental Health facilities.
- Recommendation: Repeal entire statute
- Basis for Recommendation: The Department of Mental Health has its own attorneys who are in a position to review and evaluate easements, permits, or rights of way.

Section 44-11-110. Easements and rights of way on grounds of facilities.

Universal Citation: SC Code § 44-11-110 (2012)

The Mental Health Commission may, by resolution recorded on the minutes of its meetings, grant easements, permits or rights of way on, over or under the grounds of the facilities, but none may be granted unless approved in writing by the Attorney General before delivery.

HISTORY: 1962 Code Section 32-941; 1952 Code Sections 32-981, 32-982; 1942 Code Section 6245; 1932 Code Section 6245; Civ. C. '22 Section 5107; Civ. C. '12 Section 3372; Civ. C. '02 Section 2261; 1894 (21) 835; 1920 (31) 704; 1941 (42) 188; 1942 (42) 1685; 1952 (47) 2042.

LAW CHANGE RECOMMENDATION #8

- Law: S.C. Code Section 39-5-80. Additional powers of Attorney General in administration of article.
- Current Law: Section 3-1-30 governs retention of public records, and prohibits the Attorney General from either returning to the producing party, or destroying documents obtained pursuant to civil investigative demand (CID) under Section 39-5-70 of the South Carolina Unfair Trade Practices Act (SCUTPA). Although documents received pursuant to CID are public records under Section 30-4-40, they are confidential and not subject to FOIA under 39-5-80 of SCUTPA
- Recommendation: Add to Section 39-5-80 a provision allowing the Attorney General to return confidential documents produced pursuant to CID to the producing party, to destroy them, or to retain in accordance with records retention policies.
- Basis for Recommendation:
 - During SCUTPA investigation, companies request provisions in confidentiality agreements or settlement agreements to protect confidential information, requiring the return or destruction of information they produce, which may include trade secrets and other sensitive information.
 - Furthermore, CID productions are voluminous, and are often produced via electronic media, such as hard drive, flash drive, or CD, and understand that we do not have a temperature-controlled state records facility that can accommodate electronic media once our case is closed.
 - The return or destruction documents received via CID furthers the producing party's goals of protecting the confidentiality of the information they produce, while also alleviating storage costs and limiting potential liability for data or security breaches.

SECTION 39-5-80. Additional powers of Attorney General in administration of article.

To accomplish the objectives and to carry out the duties prescribed by this article, the Attorney General, in addition to other powers conferred upon him by this article, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, prescribe such forms and promulgate such rules and regulations as may be necessary, which rules and regulations shall have the force and effect of law; provided, however, that none of the powers conferred by this article shall be used for the purpose of compelling any person to furnish testimony or evidence which might tend to incriminate him or subject him to a penalty or forfeiture; and provided, further, that information obtained pursuant to the powers conferred by this article shall not be made public or disclosed by the Attorney General or his employees beyond the extent necessary for law-enforcement purposes in the public interest. At the conclusion of the investigation, the Attorney General may return information obtained pursuant to the powers conferred by this article to the producing party, destroy the information, or maintain it in accordance with applicable document retention policies.



Associated Performance Measures

The next slides only contain information on performance measures that are associated with services covered earlier in this presentation.

Performance

Metrics tracked include:

Matters completely resolved pursuant to:

- S.C. Unfair Trade Practices Act
- State and federal Authority
- Charitable Trust authority

Performance

Metrics tracked include:

Matters timely enforced pursuant to:

- Telephone Privacy Protection Act
- Bad Faith Assertion of Patent Infringement Act

Timely review of the following:

- Notices of Unfair Trade Practices Act cases from County Clerks of Court
- Notices of nonprofit dissolutions and sales of certain nonprofit assets
- Grants of easements, permits, and rights of way over Department of Mental Health facilities
- Applications for health care cooperative agreements when referred by DHEC
- Settlements under the Class Action Fairness Act
- Data breach notice letters (and response to them)

Numbers tracked for the following:

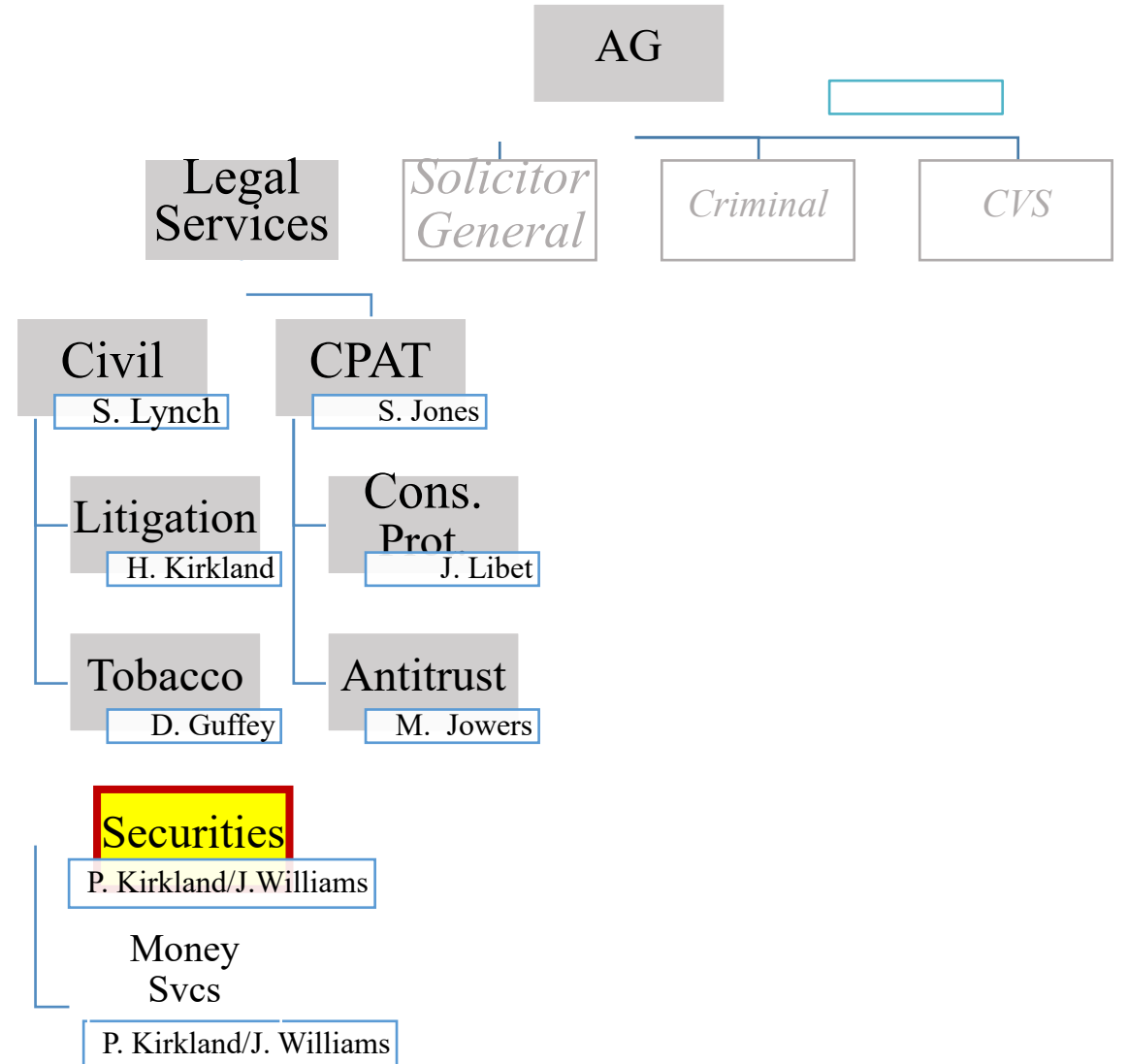
- Matters resolved as Administrator under the Motor Vehicle Act
- Timely participation in or review of working group calls
- Timely handle investigations under the S.C. Nonprofit Corporations Act
- Federal tax form 990 received and filed
- Matters with service as local counsel to other AG Offices
- Timely recommendations made to the Attorney General's Office for sign-ons related to the Section

AGENCY PRESENTATION – SECURITIES AND MONEY SERVICE



Securities Section

- Registration
- Enforcement
- Outreach



Personnel

	Turnover	Number of Employees	
		Leave unit during year	In unit at end of year
2016-17	6%	1	16
2017-18	19%	3	15
2018-19	37%	5	12
2019-20	17%	2	12

Note:

- 2018-19 turnover
 - 20% - employment outside of state government
 - 40% - employment with another state agency
 - 20% - retirement
 - 20% - internal transfer

Exit interviews or surveys conducted?

2016-17	Yes
2017-18	Yes
2018-19	Yes
2019-20	Yes

Employee satisfaction tracked?

2016-17	No
2017-18	Yes
2018-19	No
2019-20	No

Overview

AG is the Securities Commissioner for the State. This section assists the AG in fulfilling the duties to enforce the S.C. Uniform Securities Act of 2005.

Duties include:

- registration of broker-dealers, broker-dealer agents, investment advisers, and investment adviser representatives prior to their doing business in this state
- registering certain securities offerings
- receiving notice filings for mutual funds, unit investment trusts, and other federal covered securities
- conducting routine and for cause examinations
- investigating allegations of violations of securities laws and taking appropriate action
- promoting investor education to help the investing public make informed decisions and avoid being defrauded

Mission

- Protect investors
- Promote integrity, fairness, and full disclosure in the state's securities markets
- Facilitate legitimate capital formation



Securities Registration

Note: On the following slides the 2019-20 Total Cost of Service and Cost per unit have been updated and are different from the numbers previously submitted on the PER but have been corrected herein.”

What is a security?

Definition of a Security:

- Examples: stocks, bonds, and mutual funds
- An investment in a common enterprise with the expectation of profits to be derived from the efforts of others
- A financial asset that has value and can be bought or sold

Securities offering:

- Securities offered in S.C. must be registered, notice-filed, or exempt
- Examples:
 - Registered: Offerings from smaller companies not traded on a stock exchange
 - Notice-filed: Form D, mutual funds
 - Exempt: Exchange traded offerings, small transactions

Securities Law:

- State securities laws preceded federal securities laws
- Some aspects of state law were pre-empted by federal law
- S.C. law impacted by federal law, as well as uniformity with other states

*Who must
comply
with the
S.C.
Uniform
Securities
Act of
2005?*

Broker-Dealers (only obligated to provide one-time advice)

- Brokerage firm buys and sells securities for customer accounts
- Recommendations must be in the best interest of customers
- Generally paid a commission; Employees are “agents”
- Registered with Securities and Exchange Commission (“SEC”), Financial Industry Regulatory Authority (“FINRA”) and with the Securities Division
 - FINRA works under the supervision of the SEC and acts as the first line of oversight for the brokerage industry

Investment Advisers (ongoing relationship with clients)

- Firm of financial professionals who provide guidance to investors to help them make investing decisions. Firm may also manage an investor’s portfolio
- Investment advisers are fiduciaries
- Generally paid a % of the assets managed, or an hourly fee for a financial plan
- Employees are “representatives”
- Registered with SEC AND “notice-filed” with the Securities Division
 - Firms with > \$100M in assets under management
- Registered with Securities Division, and other states where they do business
 - Firms with < \$100M in assets under management
 - Note: Those in this category that are headquartered in S.C. are referred to as “**S.C. Home-State Registered Investment Advisers**”

FIRMS AND EMPLOYEES WHO SELL THE PRODUCTS

	2017	2018	2019	2020	
Registered Broker-Dealers (firms)	1,653	1,637	1,612	1,613	↑
Registered Broker-Dealer Agents (employees)	188,733	195,964	202,856	206,885	↑
Registered/ Notice-Filed Investment Advisers (firms) -includes all firms	1,980	2,164	2,233	2,324	↑
Registered Investment Adviser Representatives (employees)	8,814	9,553	9,457	9,598	↑
SC Home-State Registered Investment Advisers (firms) Firm with < \$100M in assets under management + HQ in S.C.	178	186	185	198	↑

BROKER-DEALERS AND AGENTS

Registration of Broker-Dealers (firms) (Service #38)

Review the application for persons wishing to register in this state as a broker-dealer and issue registration approval if the application is not denied

<u>Single Unit</u>		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
	2016-17	1,653.00	\$5.42	0.10	\$8,964.73	0.05%
Registration Approval	2017-18	1,637.00	\$5.04	0.10	\$8,258.31	0.01%
	2018-19	1,612.00	\$5.36	0.10	\$8,632.86	0.01%
Filing Fee-\$310	2019-20	1,613.00	\$5.45	0.10	\$8,787.31	0.01%

Registration of Agents (employees of broker-dealer firms) (Service #39)

Review the application for persons wishing to register in this state as broker-dealer agents or agents of issuers and issue registration approval

<u>Single Unit</u>		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
	2016-17	188,733.00	\$0.15	0.32	\$29,049.71	0.15%
Registration Approval	2017-18	195,964.00	\$0.14	0.32	\$26,836.18	0.05%
	2018-19	202,856.00	\$0.12	0.30	\$24,362.38	0.04%
Filing Fee-\$110	2019-20	206,885.00	\$0.12	0.30	\$24,758.24	0.03%

INVESTMENT ADVISERS AND REPRESENTATIVES

Registration of Investment Advisers (firms with <\$100M in assets under management) (Service #40)

Review the application for persons wishing to register in this state as an investment adviser, and issue registration approval

<u>Single Unit</u>		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Registration Approval	2016-17	321.00	\$86.40	0.35	\$27,735.31	0.14%
	2017-18	350.00	\$78.50	0.37	\$27,474.06	0.05%
Filing Fee-\$210	2018-19	341.00	\$87.61	0.37	\$29,874.60	0.04%
	2019-20	366.00	\$82.89	0.37	\$30,336.05	0.03%

Notice Filing of Federal Covered Investment Advisers (firms with >\$100M in assets under management) (Service #42)

Accept the notice filing for federal covered investment advisers doing business in this state, and issue a notice of acceptance

<u>Single Unit</u>		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Notice of Acceptance	2016-17	1,659.00	\$0.63	0.01	\$1,038.43	0.01%
	2017-18	1,814.00	\$0.53	0.01	\$966.07	0.00%
Filing Fee-\$210	2018-19	1,892.00	\$0.58	0.01	\$1,093.07	0.00%
	2019-20	1,958.00	\$0.57	0.01	\$1,115.56	0.02%

Registration of Investment Adviser Representatives (employees at firms with > \$100M and < \$100M in assets under management) (Service #41)

Review the application for persons wishing to register as an investment adviser representative of an investment adviser, and issue registration approval

<u>Single Unit</u>		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Registration Approval	2016-17	8,814.00	\$1.78	0.19	\$15,720.81	0.08%
	2017-18	9,553.00	\$1.51	0.19	\$14,427.07	0.02%
Filing Fee-\$55	2018-19	9,457.00	\$1.66	0.19	\$15,720.01	0.02%
	2019-20	9,598.00	\$1.66	0.19	\$15,958.78	0.03%

What products are sold?

Investment
Advisers can give
advice about any
product.

Broker-Dealers
with Series 7
license can sell
any product.

Securities Registration

- Typically a larger national or regional interstate offering of non-federal covered securities that is registered at both the federal and state level
- Used frequently by non-traded real estate investment trusts

Non-Profit Exemption Letters

- Filings by churches and church extension funds raising funds for facility acquisition/expansion (e.g., raising money to build new sanctuary or to lend to member churches)
- Offering is exempt, but must meet S.C. filing requirements

Mutual Fund/UIT Notice Filings

- Companies that pool money from many investors to invest in securities such as stocks, bonds and short-term debt

Regulation D Notice Filings (aka Rule 506 filing)

- Allows companies to raise private capital by selling securities to high-net-worth investors in a transaction that is exempt from SEC and state registration
- Used frequently by hedge funds and real estate syndicators

Reg A, Tier 2 Notice Filings

- Allows access to private capital by investors with lower net worth than Reg D

PRODUCTS

	2017	2018	2019	2020	
Securities Registration Section 35-1-303; Section 35-1-304; Section 35-1-305; Section 35-1-702(a); Regulation 13-302 Accept securities registration request filing, review and issue comments, as necessary, and, if not denied, issue a registration letter for offerings	71	56	40	32	↓
Non-Profit Exemption Letters Section 35-1-201(7); Regulation 13-202 Review nonprofit debt securities offerings in this state, issue comments, as necessary, and issue a clearance letter when all comments have been satisfied	52	52	44	38	↓
Mutual Fund/UIT Notice Filings Section 35-1-302(a); Section 35-1-702(a); Regulation 13-301 Accept the notice filing of federal covered securities that are Investment Companies as defined by Section 18(b)(2) of the Securities Act of 1933	9,314	9,010	8,977	8,734	↓
Regulation D Notice Filings Section 35-1-302(c); Section 35-1-702(a); Regulation 13-308 Accept the notice filing for federal covered securities under Regulation D Rule 506 of the Securities Act of 1933 and issue a notice of acceptance	1,406	1,555	1,728	1,774	↑
Regulation A, Tier 2 Notice Filings Section 35-1-203; Order Number 16017 [2020 Update: Regulation 13-309] Accept filings relying on federal Regulation A rules and issue a notice of acceptance. As of the date of this filing, there is a pending regulation to incorporate the Order listed above. [2020 Update: Order Number 16017 was adopted as Regulation 13-309, effective June 26, 2020]	26	29	44	74	↑

How is the Attorney General's Office involved?

Securities Registration (Non-federal covered securities)

- Accept securities registration request filing, review and issue comments, as necessary, and, if not denied, issue a registration letter for offerings
- Issues which are not "federal covered securities" must register either by coordination (§35-1-303) or qualification (§35-1-304)
 - Under the coordination approach, issuers file copies of their federal registration statements and amendments with the state, plus additional documents, such as the underwriter's agreement or articles of incorporation
 - Any security may be registered by qualification, whether or not another type of registration is available. (2005 Act 110, Section 1). Used primarily for intrastate offerings sold within SC only

Agency Service #37

See S.C. Code Section 35-1-303; Section 35-1-304; Section 35-1-305; Section 35-1-702(a); Regulation 13-302

		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Single Unit Registration Letter	2016-17	71.00	\$803.44	0.59	\$57,044.55	0.29%
	2017-18	56.00	\$969.08	0.59	\$54,268.57	0.09%
Filing Fee--\$500	2018-19	40.00	\$1,241.04	0.58	\$49,641.61	0.07%
	2019-20	32.00	\$784.88	0.64	\$25,116.19	0.06%

*How is the
Attorney
General's
Office
involved?*

Nonprofit Organization Securities Offering

- Review nonprofit debt securities offerings in this state, issue comments, as necessary, and issue a clearance letter when all comments have been satisfied
- This allows non-profit organizations to raise capital within the State as they may in other states. Provides statutory authority for the state to adopt rules with respect to notes, bonds, debentures and other evidences of indebtedness issued by nonprofit organizations. (2005 Act No. 110, Section 1)

Agency Service #32

See S.C. Code Section 35-1-201(7); Regulation 13-202

<u>Single Unit</u>		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Clearance Letter	2016-17	52.00	\$513.55	0.21	\$26,704.60	0.14%
	2017-18	52.00	\$415.93	0.19	\$21,628.18	0.04%
Filing Fee-\$150	2018-19	44.00	\$328.92	0.16	\$14,472.40	0.02%
	2019-20	38.00	\$169.85	0.16	\$6,454.30	0.02%

*How is the
Attorney
General's
Office
involved?*

Mutual Fund and other Federal Covered Securities

- Accept the notice filing of federal covered securities that are Investment Companies as defined by Section 18(b)(2) of the Securities Act of 1933
- This is designed to create a uniform approach at the state level for notice filings of these "federal covered securities" and gives the Securities Commissioner the authority to require the filing of SEC notice documents. (2005 Act No. 110, Section 1)

Agency Service #35

See S.C. Code Section 35-1-302(a); Section 35-1-702(a); Regulation 13-301

<u>Single Unit</u>		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Notice of Acceptance	2016-17	9,314.00	\$1.23	0.14	\$11,479.77	0.06%
	2017-18	9,010.00	\$1.17	0.14	\$10,565.63	0.02%
Filing Fee-\$546	2018-19	8,977.00	\$1.24	0.14	\$11,156.30	0.02%
	2019-20	8,734.00	\$1.34	0.14	\$11,711.68	0.05%

*How is the
Attorney
General's
Office
involved?*

Federally Covered Securities under Regulation D

- Accept the notice filing for federal covered securities under Regulation D Rule 506 of the Securities Act of 1933
- This is designed to create a uniform approach at the state level for notice filings of these "federal covered securities" and gives the Securities Commissioner the authority to require the filing of SEC notice documents. (2005 Act No. 110, Section 1)

Agency Service #36

See S.C. Code Section 35-1-302(c); Section 35-1-702(a); Regulation 13-308

<u>Single Unit</u>		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Notice of Acceptance	2016-17	1,406.00	\$27.13	0.53	\$38,138.57	0.19%
	2017-18	1,555.00	\$20.42	0.48	\$31,750.89	0.05%
Filing Fee-\$300	2018-19	1,728.00	\$13.88	0.35	\$23,981.58	0.04%
	2019-20	1,774.00	\$18.60	0.40	\$32,989.49	0.05%

*How is the
Attorney
General's
Office
involved?*

Federal Covered Securities under Regulation A

- Accept filings relying on federal Regulation A rules
- As of the date of this filing, there is a pending regulation to incorporate the Order listed above. [2020 Update: Order Number 16017 was adopted as Regulation 13-309, effective June 26, 2020.]
- Grants authority to the Securities Commissioner to respond to changing circumstances by relaxing the conditions to qualify for an exemption. (2005 Act No. 110, Section 1)

Agency Service #34

See S.C. Code Section 35-1-203; Order Number 16017 [2020 Update: Regulation 13-309]

<u>Single Unit</u>		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Notice of Acceptance	2016-17	26.00	\$569.82	0.18	\$14,815.22	0.08%
	2017-18	29.00	\$474.80	0.18	\$13,769.29	0.02%
Filing Fee-\$500	2018-19	44.00	\$307.10	0.18	\$13,512.51	0.02%
	2019-20	74.00	\$210.16	0.18	\$15,551.50	0.01%



Additional Services

The next slides only contain information on services that are associated with this section of the agency.

<u>Does law require it:</u>
No
<u>Assoc. Law(s):</u>
Section 35-1-202(9); Order Number 16044 [2020 Update: Regulation 13-207]
<u>Purpose (as understood by agency):</u>
To provide a state counterpart to the exemption in Section 3(a)(10) of the Securities Act of 1933. (2005 Act No. 110, Section 1)
<u>Customers:</u>
Business entities

Review fairness of the terms and conditions of an entity's exchange of securities when one S.C. company is acquiring another S.C. company

(Agency Service #31)

- Review an application, conduct a hearing, and, if approved, issue an approval of the fairness of the terms and conditions of an entity's exchange of securities for one or more outstanding securities, claims, or property interests, or partly in exchange and partly for cash
- Allows a company to rely on an exemption from the federal registration requirements, creating a significant savings in cost and time for the business, while providing adequate disclosure for a voting shareholder to make an informed decision

		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Single Unit:	2016-17	2.00	\$14,349.31	0.19	\$28,699.22	0.15%
Fairness Hearing	2017-18	1.00	\$21,068.88	0.15	\$21,068.88	0.04%
Filing Fee-\$5,000	2018-19	1.00	\$16,284.67	0.13	\$16,284.67	0.02%
	2019-20	0.00	0.00	0.00	\$0.00	0.00%

Does law require it:

No

Assoc. Law(s):

Section 35-1-203; Section 35-1-702(a);
Regulation 13-204; Regulation 13-205;
Regulation 13-206

Purpose (as understood by agency):

Grants authority to the Securities Commissioner to respond to changing circumstances by relaxing the conditions to qualify for an exemption. (2005 Act No. 110, Section 1).

Customers:

Issuers of Securities

Review filings made under Registration Exemptions

(Agency Service #33)

- Review filings made under Federal Regulation D Rule 504 and Rule 505, the Accredited Investor Exemption, and the Intrastate Offering Exemption, issue comments, as necessary, and issue a notice of acceptance when all comments have been satisfied

		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Single Unit						
Notice of Acceptance	2016-17	8.00	\$831.58	0.07	\$6,652.62	0.03%
	2017-18	4.00	\$1,555.67	0.07	\$6,222.69	0.01%
Filing Fee-\$300	2018-19	8.00	\$723.47	0.07	\$5,787.76	0.01%
	2019-20	2.00	\$3,127.72	0.07	\$6,255.45	0.05%

Review Filings that Make Changes in Registrations

(Agency Service #43)

Does law require it:

No

Assoc. Law(s):

Section 35-1-407; Section 35-1-408;
Section 35-1-409

Purpose (as understood by agency):

It is intended to avoid unnecessary interruptions of business by specifying procedures for a change in control (§35-1-407), expedite the transfer to a new employer (§35-1-408), and allow for a withdrawal of a registration or application before it becomes effective (§35-1-409). (2005 Act No. 110, Section 1)

Customers:

Broker-dealers, agents, investment advisers, and investment adviser representatives.

- Whenever there is a material change in a registration, the termination or transfer of employment, or the withdrawal of a registration, the broker-dealers, agents, investment advisers, and investment adviser representatives must notify the state Securities Commissioner (i.e., Attorney General in S.C.).
- At present this is not tracked. It is highly automated, and the software program does not track the number of units periodically updated.

		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
<u>Single Unit</u>						
Notice of Acceptance	2016-17	NA	NA	0.01	\$459.23	0.00%
	2017-18	NA	NA	0.01	\$414.03	0.00%
No filing fee	2018-19	NA	NA	0.01	\$481.86	0.00%
	2019-20	NA	NA	0.01	\$478.10	0.00%

Audit and Inspect Records of Broker-Dealers and Investment Advisers

(Agency Service #44)

- Periodically, or for other special cause, audit or inspect the records of broker-dealers and investments advisers
- Focus is on entities registered in S.C. (i.e., firms, and employees of firms, with less than \$100M in assets under management)

Does law require it:

No

Assoc. Law(s):

Section 35-1-411(d)

Purpose (as understood by agency):

To provide that, subject to all applicable privileges, and without the necessity of a subpoena, the Securities Commissioner may audit or inspect the files of a broker-dealer or investment adviser, and that failure to submit to a reasonable audit or inspection is a violation.

Customers:

Broker-dealer and investment adviser firms, State of South Carolina

		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Communication of Findings	2016-17	41.00	\$5,447.44	1.94	\$223,345.00	1.14%
	2017-18	59.00	\$3,315.28	1.83	\$195,601.56	0.33%
	2018-19	59.00	\$3,315.18	1.75	\$195,595.56	0.29%
	2019-20	61.00	\$3,398.62	1.81	\$207,315.66	0.26%

Does law require it:

No

Assoc. Law(s):

Section 35-1-504; Regulation 13-503

Purpose (as understood by agency):

To require the filing of certain sales materials, and allow for the Securities Commissioner to bring an action to prevent publication, should it be necessary.

Customers:

Issuers of Securities, State of South Carolina

Accept Filing of Sales and Advertising Literature related to a security or investment advice about securities

(Agency Service #46)

- Anyone selling in S.C. must file the prospectus, pamphlet, circular, form letter, advertisement, sales literature, or other advertising relating to a security or investment advice regarding securities.

		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>	
Single Unit	Acknowledgment of Filing	2016-17	NA	NA	0.05	\$3,216.34	0.02%
		2017-18	NA	NA	0.05	\$2,932.94	0.00%
	No filing fee	2018-19	NA	NA	0.05	\$3,090.79	0.00%
		2019-20	NA	NA	0.05	\$3,660.73	0.01%

Does law require it:

No

Assoc. Law(s):

Section 35-1-605(d)

Purpose (as understood by agency):

The purpose is to allow the Securities Commissioner to provide guidance to persons attempting to comply with the securities laws.

Customers:

The General Public

Provide Interpretative Opinions and Issue No Action Determinations

(Agency Service #51)

- Accept and review requests from individuals about proposed actions and, where appropriate, provide interpretative opinions or issue determinations that no proceeding or action will be instituted if that person takes the specified act, practice or course of business they propose to take

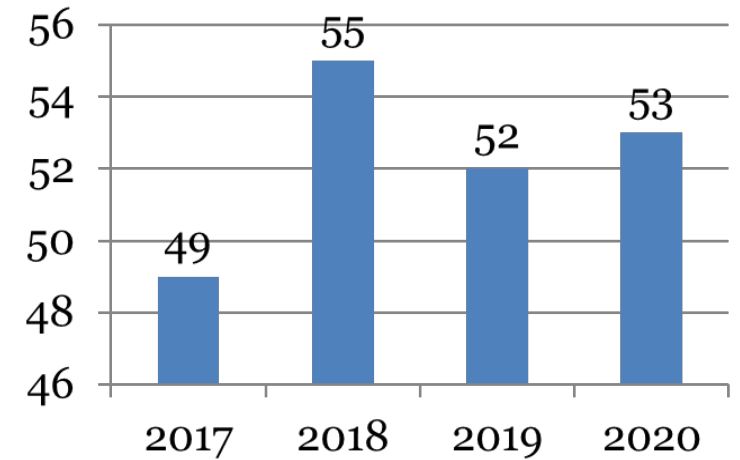
		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Single Unit						
No Action Letter or Interpretative Opinion Letter	2016-17	4.00	\$809.00	0.03	\$3,236.00	0.02%
	2017-18	0.00	0.00	0.00	\$0.00	0.00%
	2018-19	2.00	\$1,398.19	0.03	\$2,796.38	0.00%
Filing Fee-\$150	2019-20	0.00	0.00	0.00	\$0.00	0.00%

Investor Education

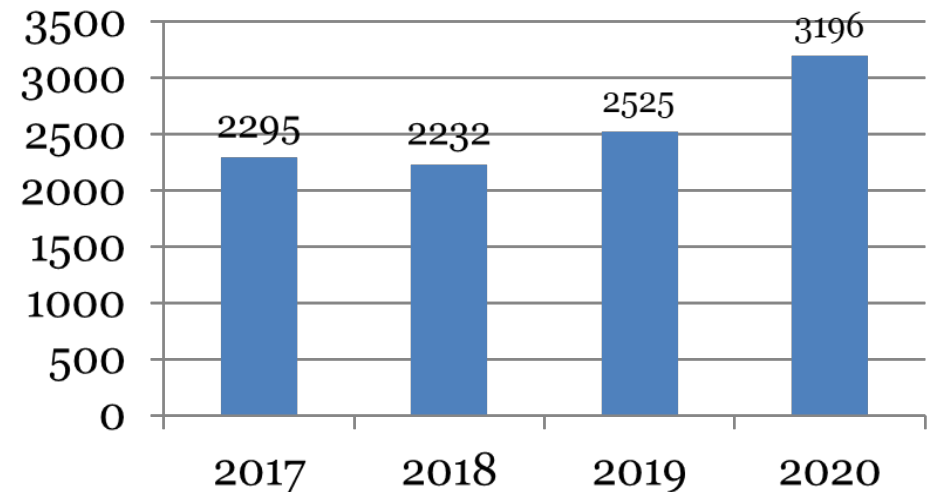
(Agency Service #47)

- Develop and implement investor education initiatives to inform the public about investing in securities and the prevention and detection of fraud
- Outreach initiatives include senior citizens, military and professional groups, and law enforcement
- The lack of financial acumen among public investors, seniors, and students continues to be demonstrated in recent industry and regulatory studies. The importance of investor financial literacy is increasingly crucial, given the decades' long shift from defined benefit retirement plans to defined contribution plans, where employees are left to direct their own retirement accounts. (2005 Act No. 110, Section 1)

Meetings Held



Attendees



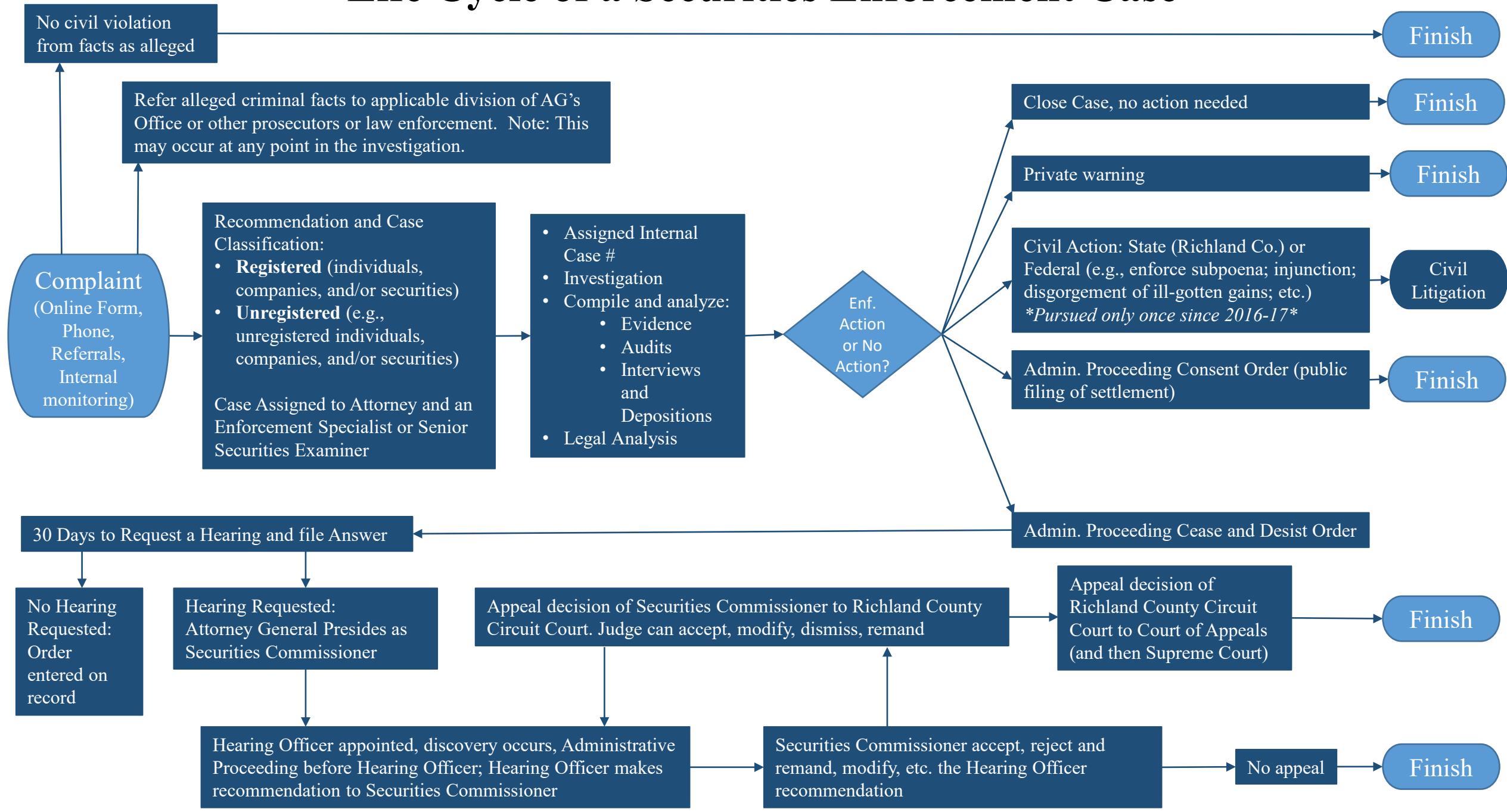
	Customers	Single Unit		Number Served	Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
Does law require it:	Investing Public and Law Enforcement	Presentation Tailored to Audience	2016-17	2,295	49.00	\$1,322.84	0.99	\$64,819.36	0.33%
No			2017-18	2,232	55.00	\$1,174.70	0.99	\$64,608.72	0.11%
Assoc. Law(s):			2018-19	2,525	52.00	\$1,403.87	1.01	\$73,001.37	0.11%
Section 35-1-601(d)			2019-20	3,196	53.00	\$1,392.61	1.01	\$73,808.53	0.09%



Securities Enforcement

Note: On the following slides the 2019-20 Total Cost of Service and Cost per unit have been updated and are different from the numbers previously submitted on the PER but have been corrected herein.”

Life Cycle of a Securities Enforcement Case





Securities Enforcement

The Life Cycle of a Securities Enforcement Case:

1. Opening a Case

- Division receives
 - referral from Securities Registration, SEC, another state, or FINRA; or
 - tip or complaint from the general public or media.
- Division determines that a case is warranted and creates a case file.
- A “case” includes investigations where no formal action occurs.
- Division generally categorizes a case as one of the following:
 - i. “private placement” case (a case involving an unregistered securities offering to limited pool of investors);
 - ii. “unregistered” case (a case involving unregistered individuals and/or securities); or
 - iii. case involving a registered respondent – an IA or IAR, BD or BD Agent.
- A primary Attorney and an Enforcement Specialist or Senior Securities Examiner are assigned to the case.



Securities Enforcement

The Life Cycle of a Case:

2. Conducting Investigation / Audit

- The Division gathers documents, conducts interviews, processes data, etc.

3. Next Steps

- The Division determines whether to close a case or whether the case warrants further action – either public or private action.
- If warranted, the Division issues a public Order, which is published on OAG's website.
- Public Orders include Orders to Cease and Desist, Administrative Orders, and Consent Orders.
- Orders can impose licensing sanctions, penalties, fees and costs associated with the Division's action, etc.



Securities Enforcement

The Life Cycle of a Case:

4. Hearing Process

- A Respondent can resolve a case by entering into a Consent Order—a settlement—which waives the right to a hearing.
- If a Cease and Desist or Administrative Order is issued, a Respondent has 30 days to answer the Order and request a hearing.
- If a hearing is not requested, the Order is final by operation of law.
- If a hearing is requested, the Attorney General as Securities Commissioner will hear the action or will assign a hearing officer to oversee the litigation and make a recommendation to the Securities Commissioner.
- The Securities Commissioner will make a final determination and issue a final order. The final Order can impose licensing sanctions, penalties, fees and costs associated with the Division's action, etc.
- The final Order can be appealed.



Associated Services

The next slides only contain information on services that are associated with this section of the agency.

Take Administrative Actions (e.g., suspend/revoke registration, cease and desist orders, etc.)

(Agency Service #45)

Does law require it:

No

Assoc. Law(s):

Section 35-1-306; Section 35-1-412;
Section 35-1-604; Section 35-1-609 [2020
Update: Régulation 13-604]

Purpose (as understood by agency):

§35-1-306 is available to prevent an offering going forward that is fraudulent or unlawful; §35-1-412 authorizes the Securities Commissioner to seek a sanction based on the seriousness of the misconduct; §35-1-604 allows the Securities Commissioner to initiate an administrative action summarily; and §35-1-609 sets forth the procedures for judicial review. (2005 Act No. 110, Section 1)

Customers:

State of South Carolina

(1) Issue administrative orders, as necessary, to

(i) deny, suspend, or revoke a securities registration;

(ii) deny, condition, or limit an application of, revoke, suspend condition, or limit the registration of, or censure, bar or impose a civil penalty on a broker-dealer, agent, investment adviser, or investment adviser representative; and

(iii) cease and desist violating the laws.

(2) Hold an administrative hearing if requested.

(3) Take appropriate steps if final orders are appealed.

		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>	
Single Unit	Administrative Order	2016-17	36.00	\$14,825.64	4.69	\$533,722.98	2.72%
		2017-18	30.00	\$14,152.64	3.81	\$424,579.17	0.71%
		2018-19	23.00	\$16,299.93	3.26	\$374,898.48	0.56%
		2019-20	7.00	\$40,537.68	2.44	\$283,763.78	0.34%

<u>Does law require it:</u>
No
<u>Assoc. Law(s):</u>
Section 35-1-602
<u>Purpose (as understood by agency):</u>
To allow the Securities Commissioner to open investigations and subpoena appropriate witnesses and documents.
<u>Customers:</u>
State of South Carolina

Conduct Investigations

(Agency Service #48)

Investigations and Subpoenas - Conduct investigations and subpoena witnesses or documents as is deemed necessary or appropriate to determine if there are violations of the securities laws.

		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
<u>Single Unit</u>						
Investigations and cases conducted by the Securities Division	2016-17	61.00	\$8,868.77	5.37	\$540,994.91	2.76%
	2017-18	57.00	\$8,856.78	5.28	\$504,836.30	0.85%
	2018-19	56.00	\$7,904.90	5.02	\$442,674.63	0.66%
	2019-20	38.00	\$8,045.36	3.24	\$305,723.60	0.43%

Does law require it:

No

Assoc. Law(s):

Section 35-1-603

Purpose (as understood by agency):

To broaden civil remedies available when the Securities Commissioner believes that a violation has occurred. A primary purpose of a broad range of potential sanctions is to enable the Securities Commissioner to better tailor appropriate sanctions to particular misconduct. (2005 Act No. 110, Section 1)

Customers:

State of South Carolina

Enforcement in Court

(Agency Service #49)

Bring an action in the Richland County Court of Common Pleas to enforce the securities laws and to obtain injunctions, restraining orders, declaratory judgments, asset freezes, the appointment of a receiver, and other appropriate relief.

<u>Single Unit</u>		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Court Pleadings	2016-17	0.00	0	0.01	\$699.08	0.00%
	2017-18	0.00	0	0.01	\$585.54	0.00%
	2018-19	1.00	\$2,754.32	0.03	\$2,754.32	0.00%
	2019-20	0.00	0	0.00	\$0.00	0.00%

Does law require it:

Yes

Assoc. Law(s):

Section 35-1-604(f); Section 35-1-604(h);
Section 35-1-606(b); Section 35-1-606(c)

Purpose (as understood by agency):

The purpose is to inform the general public of the enforcement actions or orders taken against persons in this state, and of the forms, opinions and regulatory orders issued by the Securities Commissioner.

Customers:

Department of Revenue, Secretary of State and General Public

Send Final Orders to Appropriate Agencies and Publish Online for the Public

(Agency Service #50)

- Final Orders and Public Availability - Send copies of final orders to the Department of Revenue and the Secretary of State; publish the administrative orders on the Attorney General's website; and make all rules, forms, interpretive opinions, and orders available to the public.
- Substantially all orders, forms and opinions are published on the Attorney General's Office website. The Secretary of State and the Department of Revenue have agreed that they receive notice by the publication on the website.

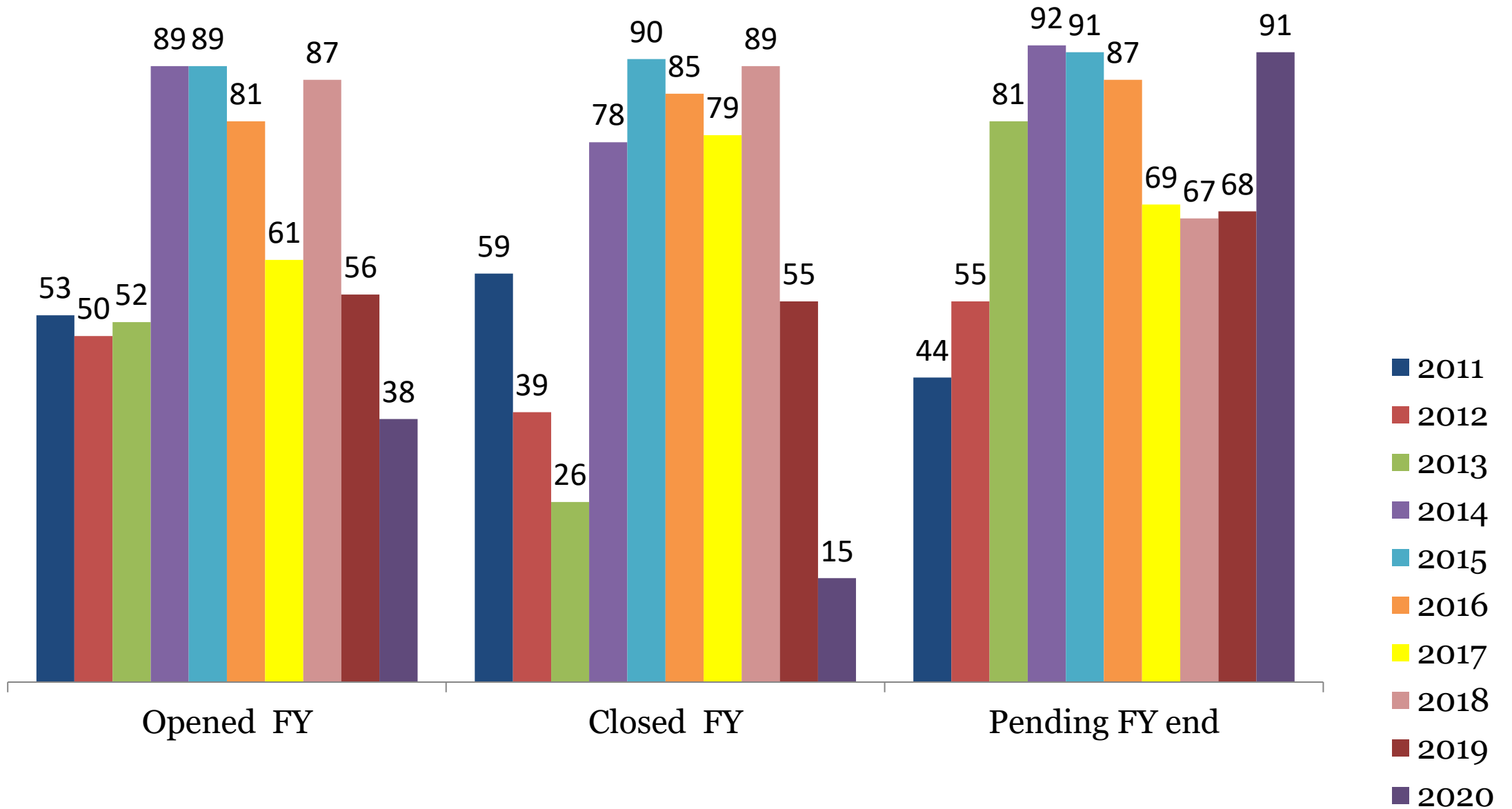
		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Single Unit Each order posted to the Attorney general website	2016-17	36.00	\$37.43	0.02	\$1,347.51	0.01%
	2017-18	30.00	\$41.37	0.02	\$1,240.99	0.00%
	2018-19	23.00	\$57.89	0.02	\$1,331.46	0.00%
	2019-20	7.00	\$138.61	0.02	\$970.25	0.00%



Associated Performance Measures

The next slides only contain information on performance measures that are associated with services covered earlier in this presentation.

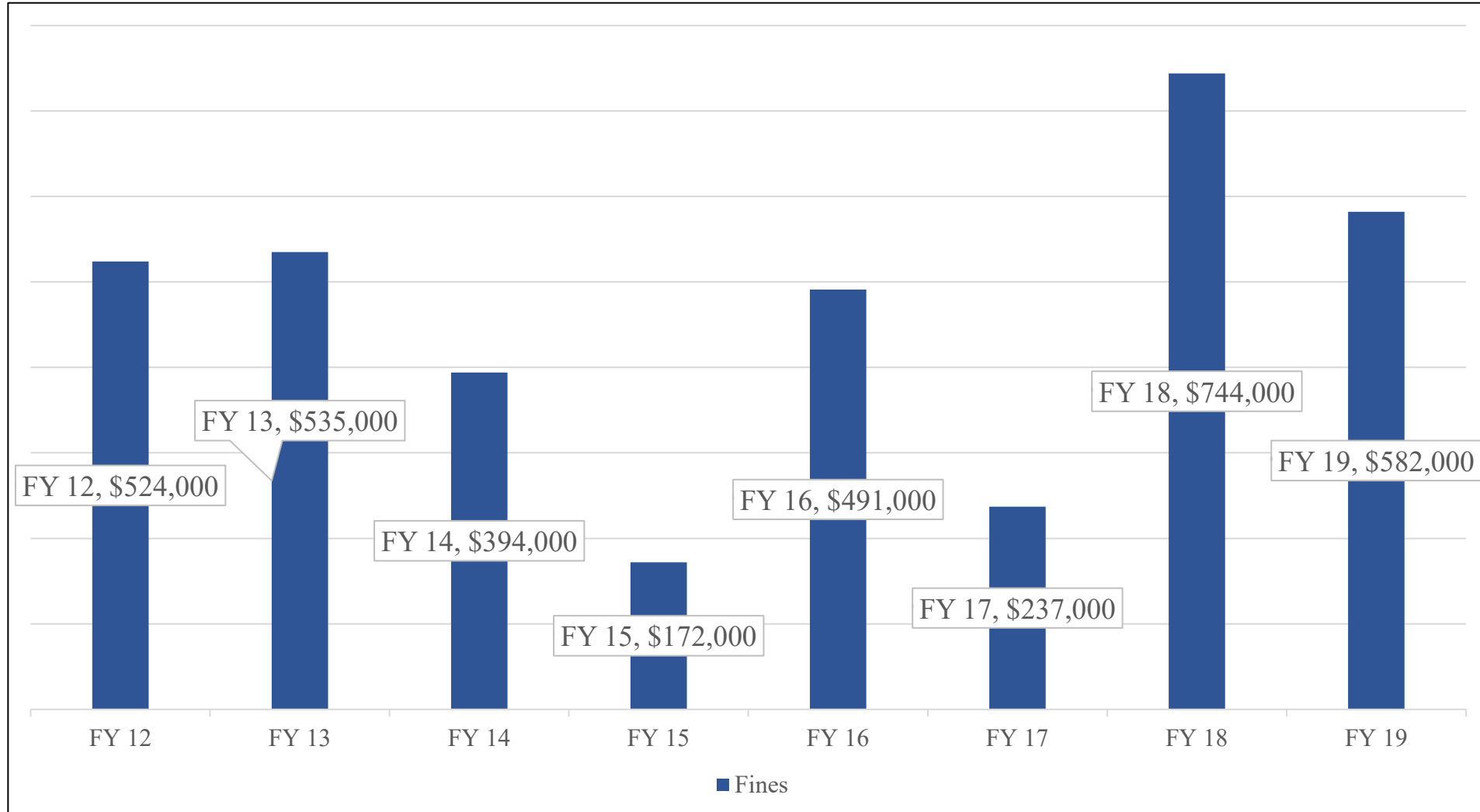
SECURITIES ENFORCEMENT CASES



The Division has observed that when the economy is performing well, the number of complaints are down.

Securities Fines

The purpose of Securities Fines are to curb unlawful activity, not generate revenue.





Associated Successes

The next slides only contain information on services that are associated with this section of the agency.

Administrative Hearing Regulations

Governs Processes for an Administrative Hearing



SUBARTICLE 6 ADMINISTRATION AND JUDICIAL REVIEW

13-604. Procedures for Administrative Hearings before the Securities Commissioner.

A. This regulation shall apply to Administrative Hearings held pursuant to Sections 35-1-306, 35-1-412, and 35-1-604.

B. To the extent that they do not conflict with the definitions set forth in Section 35-1-102, the terms below have the following meanings:

(1) "Administrative Hearing" means a proceeding before the Hearing Officer under the South Carolina Uniform Securities Act of 2005.

(2) "Administrative Order" means an order issued under Sections 35-1-306, 35-1-412, and 35-1-604 of the South Carolina Uniform Securities Act of 2005 that may lead to an Administrative Hearing.

(3) "Division" means the Securities Division of the South Carolina Attorney General's Office.

(4) "Hearing Officer" means either the Securities Commissioner or the person designated in accordance with this regulation by the Securities Commissioner to preside over an Administrative Hearing.

(5) "Party" means a Respondent in the proceeding and the Division.

(6) "Respondent" means a person against whom an Administrative Order is issued under the South Carolina Uniform Securities Act of 2005.

C. Time and Place of Filings.

(1) After the request for a hearing has been filed with the Division, all filings must be made with the Hearing Officer assigned to the case and shall contain the file number assigned to the case by the Division.

(2) After a Hearing Officer has been assigned, a pleading, motion, or other paper, is considered filed when it is received by the Hearing Officer.

(3) Unless otherwise specifically provided by law or this regulation, computation of any time period prescribed by this regulation or by an order of the Securities Commissioner begins with the first day following the act or event that initiates the time period. The last day of the time period so computed is included unless it is a Saturday, Sunday, State holiday, or any other day on which the Division is closed, in which event the period runs until the end of the next business day.

(4) If a notice or other filing is served by mail or e-mail and the Party served is entitled or required to take some action within a prescribed time period after service:

(a) The date of mailing is the date of service; and

Protection of Vulnerable Adults from Financial Exploitation Act

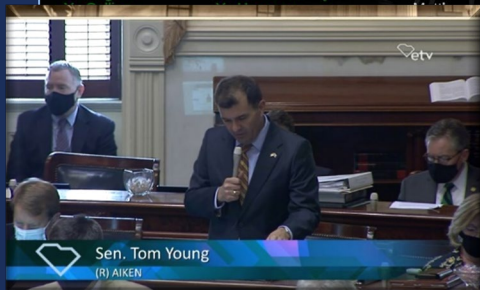
- Gives bankers and investors the chance to say No for 30 days if they believe a senior is being tricked into liquidating funds.

S 425 PAGE 6 Alexander

etv

Passage of Bill

Y Alexander	Y Cox, B.	Y Herbkersman	Y May	Y Rutherford
Y Allison	Y Cox, W.	Y Hewitt	Y McCabe	Y Sandifer
Y Anderson	Y Crawford	Y Hill	Y McCravy	Y Simrill
Y Atkinson	Y Dabney	Y Hiott	Y McDaniel	Y Smith, G.M.
Y Bailey	Y Daning	Y Hixon	Y McGary	Y Smith, G.R.
Y Ballentine	Y Davis	Y Hosey	Y McGinnis	Y Smith, M.M.
Y Bamberg	Y Dillard	Y Howard	Y McKnight	Y Stavrakis
Y Bannister	Y Elliott	Y Huggins	Y Moore, J.	Y Stringer
Y Bennett	Y Erickson	Y Hyde	Y Moore, T.	Y Taylor
Y Bernstein	Y Felder	Y Jefferson	Y Morgan	Y Tedder
Y Blackwell	Y Finlay	Y Johnson, J.E.	Y Moss, D.C.	Y Thayer
Y Bradley	Y Forrest	Y Johnson, J.L.	Y Moss, V.S.	Y Thigpen
Y Brawley	Y Fry	Y Johnson, K.O.	Y Murphy	Y Trantham
Y Brittain	Y Gagnon	Y Jones	Y Murray	Y Weeks
Y Bryant	Y Garvin	Y Jordan	Y Newton, B.	Y West
Y Burns	Y Gatch	Y Kimmons	Y Newton, W.	Y Wetmore
Y Bustos	Y Gilliam	Y King	Y Nutt	Y Wheeler
Y Calhoun	Y Gilliard	Y Kirby	Y Oremus	Y White
Y Carter	Y Govan	Y Ligon	Y Ott	Y Whitfield
Y Caskey	Y Haddon	Y Long	Y Parks	Y Williams
Y Chumley	Y Hardee	Y Lowe	Y Pendarvis	Y Williams
Y Clyburn	Y Hart	Y Lucas	Y Pope	Y Willis
Y Cobb-Hunter	Y Hayes	Y Magnuson	Y Rivers	Y Wooten
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		Y Rose		



abc COLUMBIA NEWS WATCH LIVE SPORTS WEATHER PROGRAMMI

Governor McMaster signs bill to help protect vulnerable adults from scammers

Jul 28, 2021 6:22 PM EDT by Mike Olson

abc COLUMBIA

COLUMBIA, SC (WOLO)– Governor Henry McMaster signed a bill designed to prevent the elderly and other vulnerable adults from falling prey to scammers. Wednesday afternoon, the governor signed the bill that gives financial institutions the authority to decline certain financial transactions if fraud is suspected.

Officials say scam artists frequently target our state's senior citizens.

“Taking advantage of vulnerable adults for financial gain happens all too often in this country,” said Governor Henry McMaster. “Enabling our financial institutions to take action and fight back is an important step in protecting South Carolinians from exploitation and will help to ensure their financial security.”

The law takes effect immediately.



Legal Services - Law Recommendations

The next slides only contain information on recommendations for law changes that are associated with this section of the agency.

LAW CHANGE RECOMMENDATION #2

Law: S.C. Code Section 35-1-604. Administrative Enforcement.

Current Law: In part, Subsection (f) requires that the Securities Commissioner forward final orders issued under §35-1-604 of the SC Uniform Securities Act of 2005 to the SC Department of Revenue and the SC Secretary of State.

Recommendation: Modify to delete the final sentence in this section requiring forwarding of final orders to the Department of Revenue and Secretary of State.

Basis for Recommendation: The Department of Revenue and Secretary of State have indicated that they believe publication of final orders on our website sufficiently puts them on notice of an action. They do not object to this change.

Others Potentially Impacted: Department of Revenue and Secretary of State

SECTION 35-1-604. Administrative Enforcement.

(f) If a petition for judicial review of a final order is not filed in accordance with Section 35-1-609, the Securities Commissioner may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court. ~~A copy of a final order must be forwarded to the South Carolina Department of Revenue and the South Carolina Office of the Secretary of State.~~

LAW CHANGE RECOMMENDATION #3

Law: S.C. Code Section 35-1-602. Investigations and Subpoenas.

Current Law: Subsection (e) provides a means by which the Securities Commissioner can compel a recalcitrant respondent to provide documents or testimony. Specifically, this section provides “use immunity” from prosecution, where the testimony or record compelled may not be used directly or indirectly against an individual in a criminal case. The SC Supreme Court has held South Carolina only recognizes transactional immunity, noting that anything less than transactional immunity is unconstitutional.

Recommendation: Modify the statute to remove the unconstitutional “use immunity” provision. Modify the SC Reporter’s Comments, which incorrectly states, “[t]his provision provides a clarification of the procedure for obtaining use immunity, but it does not change current law which provides for it.”

Basis for Recommendation: The South Carolina Supreme Court, in a number of cases stemming from *Ex Parte Johnson*, 187 S.C. 1, 196 S.E. 164 (1938), has held that use immunity is unconstitutional in South Carolina.

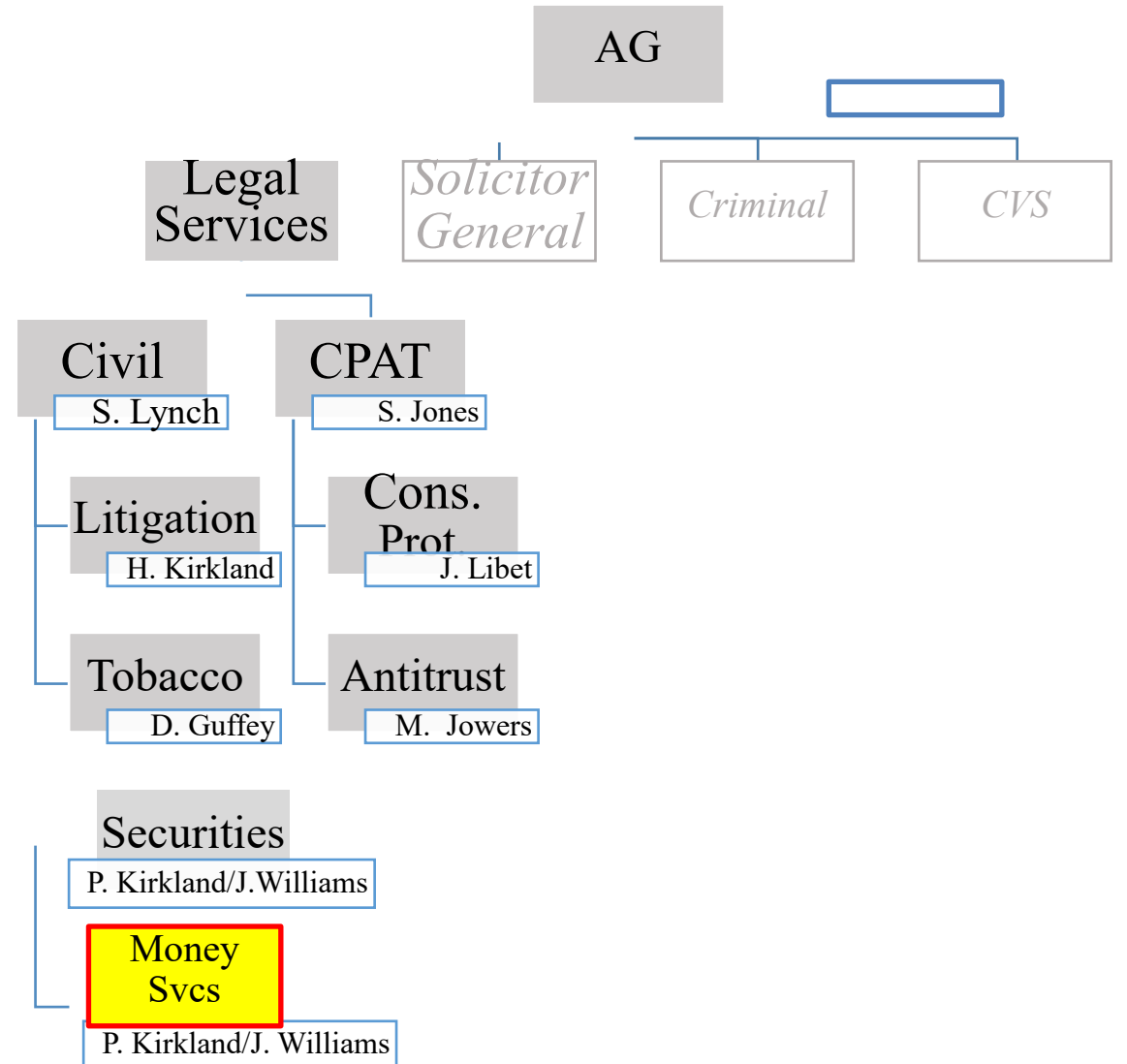
Others Potentially Impacted: None

SECTION 35-1-602. Investigations and Subpoenas.

(e) An individual is not excused from attending, testifying, filing a statement, producing a record or other evidence, or obeying a subpoena of the Securities Commissioner under this chapter or in an action or proceeding instituted by the Securities Commissioner under this chapter on the ground that the required testimony, statement, record, or other evidence, directly or indirectly, ~~may tend to incriminate the individual or subject the individual to a criminal fine, penalty, or forfeiture~~ would violate the individual's privilege against self-incrimination. If the individual refuses to testify, file a statement, or produce a record or other evidence on the basis of the individual's privilege against self-incrimination, the Securities Commissioner may apply to the Richland County Court of Common Pleas to ~~compel the testimony, the filing of the statement, the production of the record, or the giving of other evidence~~ determine whether such a privilege applies to the particular statement, record, or other evidence in question. If the court determines such a privilege to apply, the Securities Commissioner may then choose to request that the court issue an order compelling the testimony, statement, or production of the record in question. The individual shall not be subject to criminal prosecution for any transaction, matter, or thing related to the testimony, record, or other evidence compelled under such an order ~~may not be used, directly or indirectly, against the individual in a criminal case, except in a prosecution~~ for a case of perjury, or contempt, or otherwise failing to comply with the order.



Money Services Division



See Handout

Money Services Division

Purpose of Services Outlined in Law

- Protect the interests of South Carolina consumers who use a money service business, including money transmitters and currency exchangers (“MSB”) by ensuring the overall financial condition of the MSB is sound and the MSB is properly monitoring transactions in an effort to deter the occurrence of money laundering, terrorist funding, and/or other financial crimes.
- The Anti-Money Laundering Act, S.C. Code Ann. §35-11-100 et seq. (the “Act”) also includes certain provisions related to criminal money laundering-related activities that, along with revisions to Section 14-7-1630 (A) of the Code, expand the jurisdiction of the state grand jury to include a crime related to a violation of the Act.

The Attorney General is the Commissioner over certain money services businesses, as provided in the Act.

Types of Licenses

Money Transmission Licenses, see S.C. Code Sections 35-11-200 thru -225; Regulation 13-2201 and -2202

Currency Exchange Licenses, see S.C. Code Sections 35-11-300 thru -315; Regulation 13-2301

Money Transmission License (good for 1 year)

The OAG began accepting applications in FYE 6/30/18. Application and licensing fees collected are transferred to the General Fund. Money transmission began over 150 years ago as a way of sending money across the country via telegraph network.

Western Union offices still exist, but people use on-line money transmitter apps to pay bills, purchase items, and send funds domestically or abroad. Examples of money transmitters include **MoneyGram, PayPal (which also owns Venmo) and Square**, as well as digital currency (**crypto currency**) companies such as **Coinbase and Bittrex**.

Initial application in S.C. (Service #53) - Review the application for persons wishing to register in S.C. and issue registration approval.

Year	Businesses Served	Registration Approvals	Cost to Agency per unit
2017-18	46	0	0
2018-19	68	99	\$657.57
2019-20	26	26	\$1,235.83

Accept license from another state (Service #54) - Review the application for persons licensed in at least one other state which has enacted the Uniform Money Services Act and wishing to engage in money transmission in S.C. Issue approval, if appropriate.

Year	Businesses Served	Approvals	Cost to Agency per unit
2017-18	11	0	0
2018-19	9	19	\$722.25
2019-20	0	0	0

Renewal (Service #55) - Review the renewal application and issue approval.

Year	Businesses Served	Renewals	Cost to Agency per unit
2017-18	0	0	0
2018-19	0	0	0
2019-20	105	105	\$95.11

Currency Exchange License (good for 2 years)

Purpose is to provide the ability for a person to apply for a currency exchange license if they do not also conduct money transmission. Fees collected are transferred to the General Fund. Since the OAG began accepting applications in FYE 6/30/18, two businesses have applied for this license. One was approved; one was withdrawn. No renewals were processed in FYE 6/30/19.

The licensed currency exchanger is **Dartmouth Capital LLC**.

Initial application in S.C. (Service #56) - Review the application for persons wishing to register in S.C. and issue registration approval.

Renewal (Service #57) - Review the renewal application and issue approval.

Exams

Annual and Joint Exams (Service #58 and #59) – Section 35-11-500 and -505

Commissioner has authority to conduct an annual exam of a licensee or its authorized delegates, or at any time an unsafe or unsound practice or violation of the law is suspected. Also, regulators may conduct joint exams and coordinate other actions for efficiency.

The AG annually reviews the licensee's compliance with financial statement reporting requirements, minimum net worth standards, and surety bond requirements. The AG also works with MSB on behalf of their S.C. customers to resolve customer complaints. The AG plans to examine the sole S.C. based MSB in the 4th quarter of 2022. Given resource restrictions, the office is not currently performing examinations of MSBs headquartered in other states.

Changes required to report

See, S.C. Code Sections 35-11-510 and -515

Material change in licensee application (Service #60) - Review material changes in information provided in a licensee's application.

Change in control (Service #61) - Review notices of proposed changes in control filed by a licensee; issue comments, as necessary; and approve if comments are satisfied. It is important for safety and soundness reasons for the Commissioner to properly assess the background of the persons who wish to acquire control.

Disciplinary actions permitted against licensees

See, S.C. Code Sections 35-11-700 thru -720, -735, -800 and -805

Suspension or Revocation of a License (Service #62) - Suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate.

Suspension or Revocation of Authorized Delegate (Service #63) - Issue an order suspending or revoking the designation of an authorized delegate.

Cease and Desist Orders (Service #64) - Issue an order requiring a licensee or authorized delegate to cease and desist from violating the law. The Commissioner has limited authority to issue orders to cease and desist without prior notice and hearing procedures.

Civil Penalties (Service #66) - Assess civil penalties against a person who violates the money services laws.

Appointing a Receiver (Service #69) - Apply to the Richland County Circuit Court for the appointment of a receiver when the licensee is unable to pay its obligations generally as they become due.

Enforcement Hearings (Service #70) - Provide notice and opportunity to be heard and hold such hearings when the Commissioner suspends or revokes a license; issues an order to cease and desist; suspends or revokes the designation of an authorized delegate; or assesses a civil penalty. Generally, the Commissioner is required to provide notice and have a hearing before taking or making final certain disciplinary or enforcement actions against a licensee or its authorized delegates.

Consent Orders (Service #65) - Negotiate and enter into a consent order to resolve an ongoing matter. This allows the Commissioner a flexible means of achieving enforcement goals while minimizing the administrative and fiscal burden of lengthy administrative proceedings and hearings.

Disciplinary actions permitted against NON licensed individuals

See, S.C. Code Section 35-11-730

Order to show cause prior to cease-and-desist order (Service #67) - Issue an order to show cause as to why an order to cease and desist should not be issued. The cause shown in a reply may provide circumstances that preclude issuing such an order.

Restraining Orders (Service #68) - Petition the Richland County Circuit Court for a temporary restraining order.

Guidance

See, S.C. Code Section 35-11-815; Regulation 13-2801

Interpretive Orders (Service #71) - Issue interpretive orders to assist licensees in interpreting and complying with the South Carolina Anti-Money Laundering Act.

Year	Businesses Served	Approvals	Cost to Agency per unit
2017-18	0	0	0
2018-19	Unknown	4	\$5,154.14
2019-20	Unknown	2	\$0

Outdated Provisions Create High Cost to do Business in S.C.

- Provisions of the Act have been outdated since initially passed in 2016. Evolution of industry since initial passage has caused even greater need for modernization of the provisions.
 - Tools needed to regulate money transmitters of all sizes, including those that operate globally or small businesses operating locally.
 - The boom in financial technology providers has resulted in the number of transmitters operating nationwide (more than 40 states) more than doubling since 2015.
 - Standardization needed:
 - Definitions applicable to money transmitters, eliminating technical differences between states that make compliance difficult for companies operating in multiple states.
 - Exemptions from money transmitter licensing to promote consistency among states.
 - Licensing process, including standardized determinations of who is in control of a licensee and the vetting process.
 - Safety and soundness requirements, including net worth, bonding, and permissible investments.
- Model law is available and could replace the current Act.
 - The Conference of State Bank Supervisors released the Money Transmission Modernization Act (also known as the Money Transmitter Model Law) (the “Model Law”) in September of 2021. The Model Law aims to replace state-specific money transmitter laws and rules with one single set of nationwide standards and requirements created by state, as well as industry, experts. The AG would like to work with representatives from the South Carolina State Board of Financial Institutions (“BOFI”) to conform the Act to the Model Law, include provisions to make the administration of the regulatory provisions of the Act self-funding, and transfer the administration of the regulatory provisions of the Act to BOFI.

Considerations as to Implementing Agency

- While it was contemplated that the AG could administer the state grand jury/criminal provisions of the Act with no additional staff, the office was given an unfunded mandate to implement and enforce the regulatory provisions of the Act. Licensing of money services businesses is ongoing by Securities personnel, but no FTEs are available to conduct exams or take enforcement actions. (Update: The office received funding for two FTEs in the 21/22 budget year and is in the process of filling those positions.)
- During the drafting and consideration of the Act, it was noted that the appropriate agency to administer the regulatory provisions of the Act may be BOFI. The Consumer Finance Division (“CFD”) of BOFI currently regulates check cashers, a type of money services company. The AG has had conversations with BOFI since the Act was passed, and while the CFD may be better suited for the long-term administration of regulatory provisions of the Act, they have no resources with which to do so. The AG has proposed revisions to the Act that would provide funding for the regulatory provisions of the Act, as well as other necessary revisions to update the Act, in previous legislative sessions, but no action has been taken.

AG’s Recommendation

- Replace current Act with model law.
 - One state has already enacted the complete model law and several other states have enacted portions.
 - Nine states plan to propose the full law in 2023.
 - North Carolina and Tennessee plan to adopt in some form. Georgia has already adopted certain provisions.
- Reconsider agency assignments
 - Maintain criminal prosecution with the AG’s office.

- Reconsider agency assigned to implement regulatory provisions.
 - The Bank Secrecy Act requires financial institutions, including banks, credit unions, money transmitters and check cashers, to assist in detecting and preventing money laundering. BOFI's oversight currently includes the consideration of applications for and supervision of various types of financial institutions.
 - 46 states have money transmitters and other financial institutions regulated by the same agency.

Legislative Oversight Committee



South Carolina House of Representatives

Committee Mission

Determine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed or eliminated. Inform the public about state agencies.

Website: <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>

Phone Number: 803-212-6810

Email Address: HCommLegOv@schouse.gov

Location: Blatt Building, Room 228

UPCOMING MEETINGS

Law Enforcement and Criminal Justice Subcommittee

**All meetings below begin at
10:30am in Blatt Room 321*

Wednesday, June 8, 2022

Tuesday, June 14, 2022

Wednesday, June 22, 2022

Wednesday, June 29, 2022

END NOTES

¹ Visual Summary Figure 2 is compiled from information in the Attorney General's Office study materials available online under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and then under "Attorney General's Office"

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/AttorneyGeneral.php>
(accessed March 3, 2022).