

*Law Enforcement and Criminal Justice Subcommittee Meeting*

Wednesday, May 25, 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, May 25, 2022***

***10:30 a.m.***

***Room 110, 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*

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Coordinator*

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Legal Counsel*

*Lewis Carter  
Research Analyst/Auditor*

*Riley E. McCullough  
Research Analyst*

### **Law Enforcement and Criminal Subcommittee**

**Tuesday, April 26, 2022  
10:00 a.m.  
Blatt Room 110**

#### **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 Tuesday, April 26, 2022, in Room 110 of the Blatt Building. All members are present for all or a portion of the meeting. Additionally, Representative Doug Gilliam is present.

## 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 March 8, 2022, meeting. A roll call vote was held, and the motion passed.

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

## Constituent Testimony

- I. Prior to the meeting, a constituent requested the opportunity to testify; however, the constituent was not present.

## 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. B.J. Nelson, Director of Crime Victim Services;
  - b. Veronica Swain Kunz, State Victim Ombudsman;
  - c. Ginger Dukes, Deputy Director for Crime Victim Training, Provider Certification and Statical Analysis Section; and
  - d. Debbie Curtis, Deputy Director of Victim Compensation.

## Discussion of Attorney General's Office

- I. Barry Bernstein, Deputy Attorney General, makes remarks to provide clarity on testimony of agency personnel from the prior meeting.

- II. Mrs. Nelson introduces the Crime Victim Services Division. Ms. Kunz provides information about the State Victim Ombudsman section. Ms. Dukes provides information about the Crime Victim Training, Provider Certification and Statical Analysisist Section.
- III. Subcommittee members ask questions relating to the following:
  - a. Conflicts of interest with Attorney General's Office victim advocate;
  - b. Crime Victim Ombudsman;
  - c. How much impact does a victim have on plea;
  - d. Most common type of complaint from a crime victim;
  - e. Victim complaint statistics;
  - f. Evaluation of ombudsman training;
  - g. Victim complaint process;
  - h. Tracking implementation of CVO's recommendations;
  - i. Formal complaints statistics and trends;
  - j. Dismissal of complaints by victim;
  - k. Enforcement mechanism for victims rights;
  - l. Address Confidentially Program;
  - m. Manual entry of data;
  - n. Duplication of victim notification;
  - o. Certification of victim service providers; and
  - p. Promulgation of training standards.

Agency personnel respond to the questions.

### **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 (TODAY)** to discussion the agency's Crime Victim Compensation Division, Solicitor General and Opinions Section, and Tobacco Division.

## 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](http://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

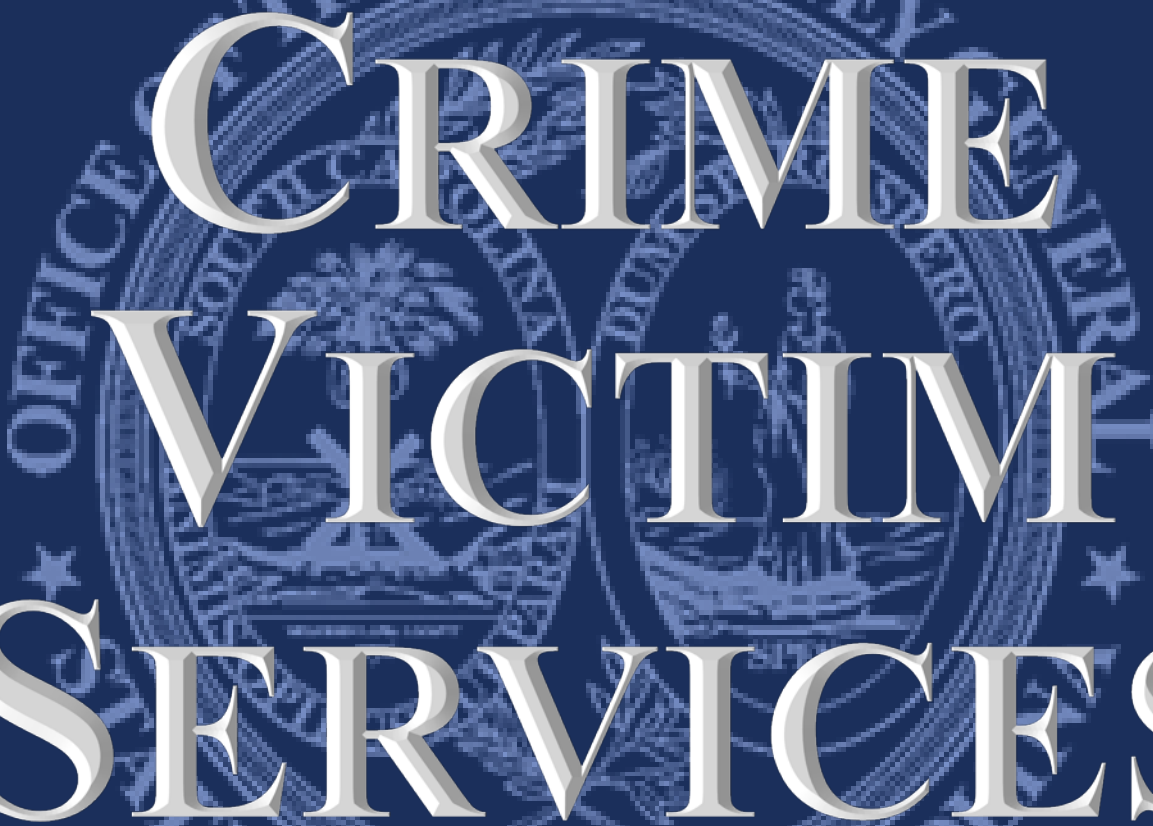
#### Emerging:

- 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.<sup>1</sup>

# AGENCY PRESENTATION – CRIME VICTIM COMPENSATION



The background features a large, faint, circular seal of the Office of the Attorney General 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

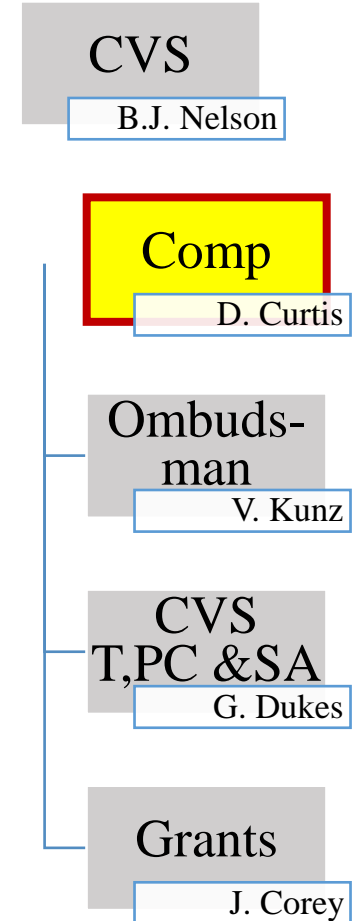
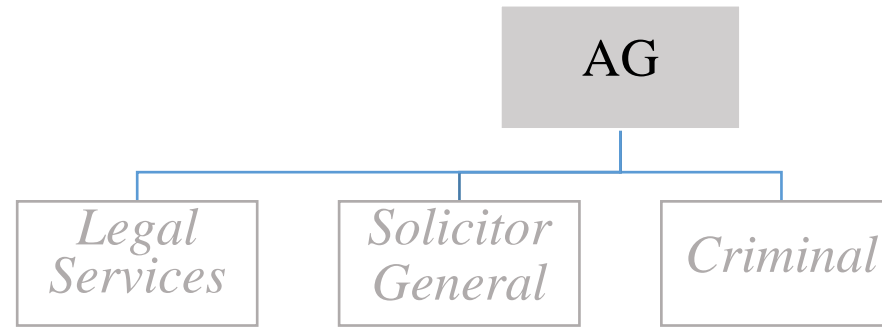
2022 Presentation for House Legislative Oversight Committee



**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 Compensation Section

*Debbie Curtis*



# 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 Compensation

*f/k/a: State Office of Victim Assistance (SOVA)*

**Alan Wilson**  
*Attorney General*

**B.J. Nelson**  
*Director*

## Mission

To minimize the impact of crime in South Carolina by providing financial compensation to eligible crime victims and their families.

## How they accomplish the mission

- Claims processing to reimburse individual victims & families for losses sustained as the result of crime.
- Outreach & training to promote the availability of compensation for eligible crime victims.
- Work with direct service agencies who make victims aware of compensation and help them with the application process.

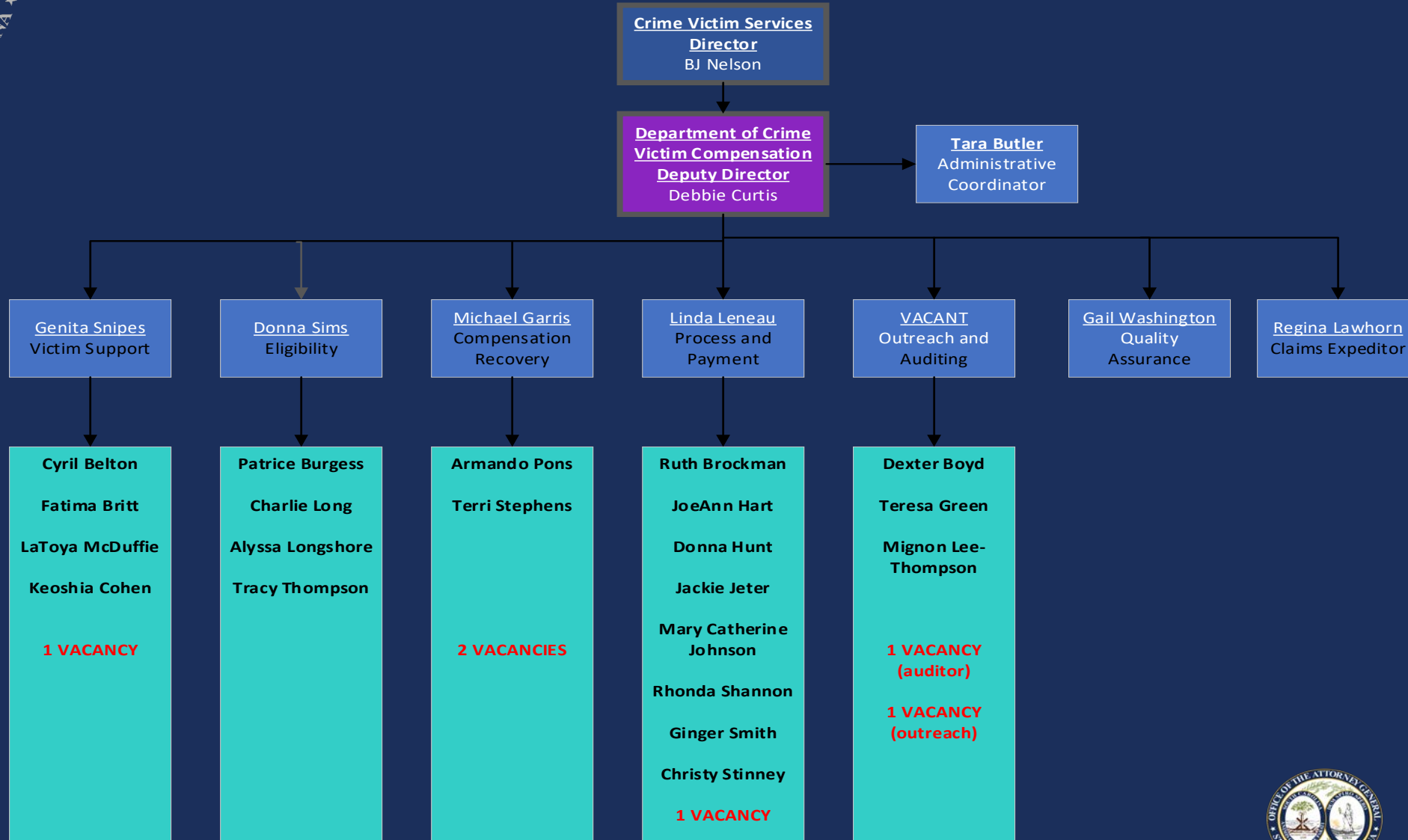


# Crime Victim Compensation

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Director





# Crime Victim Compensation

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**Alan Wilson**  
*Attorney General*

**B.J. Nelson**  
*Director*

## 2022 UPDATES

Departures	Current Employees	Additions
<ul style="list-style-type: none"><li>Ethel Ford, Assistant Deputy Director</li><li>April Staten, Outreach Coordinator</li><li>Candida Wright, Program Coordinator</li></ul>	8 Sections 30 Employees	<u>Debbie Curtis, Deputy Director</u> <u>Mary Catherine Johnson, Insurance Analyst</u>

- 3 Departures
- 7 Vacancies



# Crime Victim Compensation

*f/k/a: State Office of Victim Assistance (SOVA)*

**Alan Wilson**  
Attorney General

**B.J. Nelson**  
Director

Turnover	Number of Employees	
	Leave unit during year	In unit at end of year
2016-17	0	0
2017-18	4	38
2018-19	4	38
2019-20	6	33

This section comprises most of the Crime Victim Services Division's FTEs. It includes initial processing, eligibility determination, processing claims, payment, recovery, and oversight. The system is dependent upon limited fiscal resources.

## *Exit interviews or surveys conducted?*

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

## *Employee satisfaction tracked?*

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



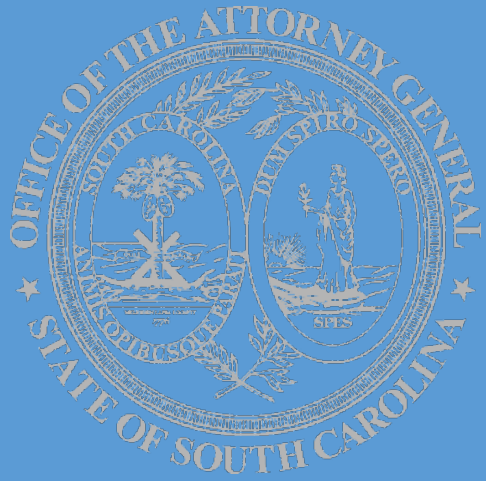


**Alan Wilson**  
*Attorney General*

**B.J. Nelson**  
*Director*

# Associated Services

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



**DCVC**



**Claims Processing**



**Auditing**



**Training**



**Outreach**



# Crime Victim Services Compensation

Alan Wilson  
*Attorney General*

B.J. Nelson  
*Director*

## What DCVC pays for:

Up to a total of \$15,000 for:

Medical and Dental Services  
Counseling Services  
Lost Wages/Loss of Support  
Funeral/Burial Expenses

## What DCVC does not pay for:

- Property damage
- Property replacement costs
- Non-criminal related traffic offenses
- Pain and suffering
- Relocation expenses

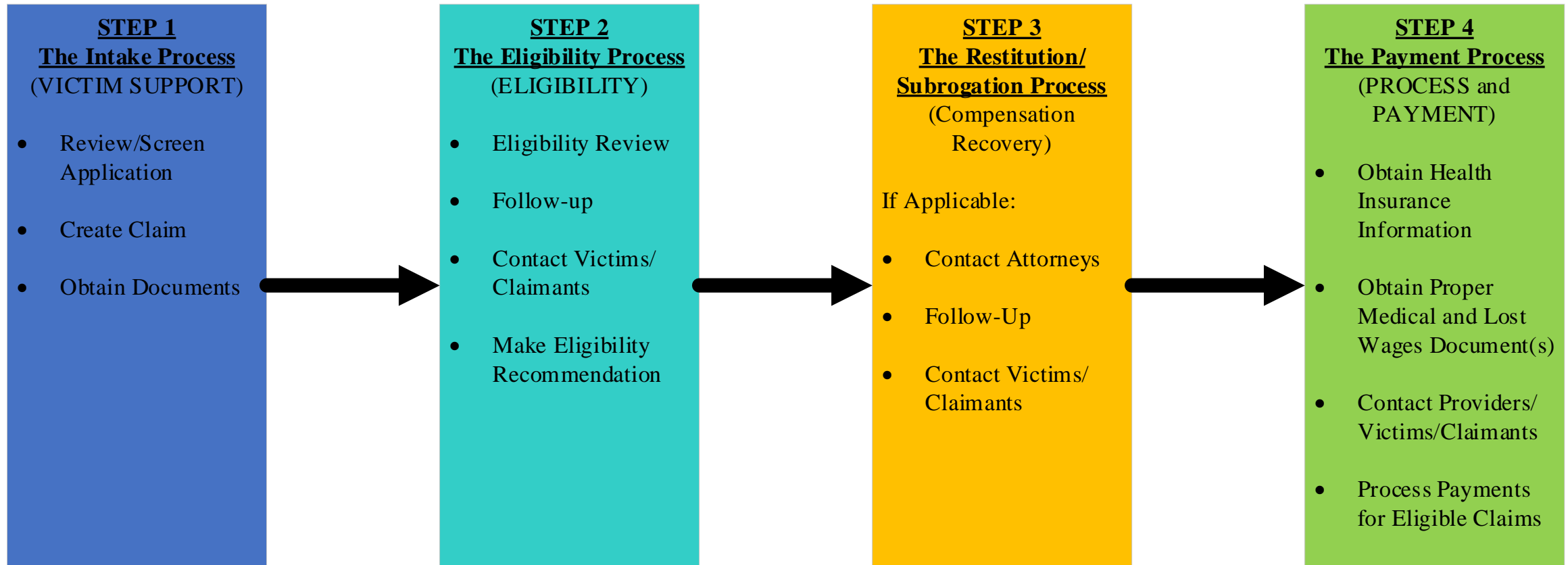
## **PAYER OF LAST RESORT:**

**Private insurance, Medicaid, law suits & other third party payers are first exhausted.**

*Support Victims Balanced with Fiscal Limitations & Accountability*

# 4 Step Claims Process

(Receipt of application to first payment)



Does law require it:

Yes

Assoc. Law(s):

Section 16-3-1110 Et Seq.

Purpose (as understood by agency):

To receive all of the statutorily required elements for a claim to be considered.

Customers:

Crime Victims/Claimants

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #217 Receive Applications

Receive applications for Victim Compensation Program. This is the first step in providing compensation to crime victims.

- Applications are available online (fillable PDF) and via mail and/or email upon request
- Applications are received via mail, fax, email and/or walk-in

Does law require it:

Yes

Assoc. Law(s):

Section 16-3-1110 Et Seq.

Purpose (as understood by agency):

Claims may be specifically rejected under law for lack of signature, crime happened out of state or lacking sufficient identifying information. They may also be rejected for non-compliance with other issues. It is this sectional responsibility to ensure all information is complete for further processing. Once the process is complete, forward claims with all of the statutorily required elements to Eligibility Services.

Customers:

Crime victims/Claimants, law enforcement personnel

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #218 Process Claims; Intake

Once applications\* are received, they are reviewed to ensure they meet the following criteria:

- Sections 1, 2 and 4 are completely filled out
- An incident report is attached to the application
- Application is signed by the claimant

(Each application is manually entered into the DCVC database)

\*See portions of application on next slides

# DCVC: Crime Victims' Compensation Application

Rev. 08/21

Department of Crime Victim Compensation, Edgar A. Brown Bldg., 1205 Pendleton St., Rm. 401, Columbia, SC 29201 . 1.800.220.5370 or 803.734.1900

**Use a separate application for each person. Incomplete or unsigned applications will not be accepted.**

## SECTION 1 Person Receiving Services

**Victim or family member requesting assistance.**

Check one:  Mr.  Mrs.  Ms. Full Legal Name of Individual Receiving Services/Benefits

Social Security # (last 5 digits)  -     Date of Birth  Sex:  Male  Female

The Person Receiving Services is the  Victim *(as identified on the incident report upon which this claim is based)*

OR the Victim's  Spouse  Parent  Sibling  Child Other

Check services requested:  Medical  Counseling  Lost Wages / Support  Burial Other

**Please call a local victim advocate or DCVC if you need help with completing this form.**

## SECTION 2 Victim Information

**The Victim is the same person listed as a victim on the law enforcement incident report.**

Check one:  Mr.  Mrs.  Ms. Name as it appears on the incident report

Social Security # (last 5 digits)  -     Date of Birth  Victim is:  Deceased  Incompetent  
 Under 18  Disabled

Home Mailing Address (City, State, Zip)

E-Mail Address  Contact #(s) *(i.e. work, cell, fax)*

*(For statistical purposes only and is optional)* Sex:  Female  Male

Race:  Caucasian  African American  Hispanic  Native American  Asian or Pacific Islander Other

**SECTION 3 Claimant Information****Complete only if: The Claimant is the adult assuming responsibility for the crime-related bills and/or the adult that has physical custody of a minor.**Check one:  Mr.  Mrs.  Ms.

Full Legal Name

Relationship to Victim

Social Security # (last 5 digits)

 - 

Date of Birth

Home Mailing Address  
(City, State, Zip)

E-Mail Address

Contact #(s)

*(i.e. work, cell, fax)***SECTION 4 Crime Information****Complete this section in its entirety and attach a copy of the law enforcement incident report.**If law enforcement was not contacted, an incident report was not written within 48 hours of the crime, or if you are not filing this claim with DCVC within 180 days of the crime, please explain why:

Date of Crime

Date Reported

Law Enforcement Agency

Address  
of Crime

City

State

Incident  
Report #

Name(s) of Offender(s)

Was suspect arrested?

Yes  NoType of Crime and  
Injury Sustained:Relationship of  
Offender(s) to Victim

Warrant #(s)

Has the case gone to court?

Yes

No

Please indicate the type of court:

Magistrate

Municipal

General Sessions

PTI

Family Court

How much restitution was ordered:

None

\$

Amount Ordered

\$

Amount Paid to Date



Does law require it:

Yes

Assoc. Law(s):

Section 16-3-1110 Et Seq.

Purpose (as understood by agency):

To determine eligibility of claims under the laws governing Crime Victim Compensation of state funds.

Customers:

Crime victims/Claimants, Law enforcement personnel

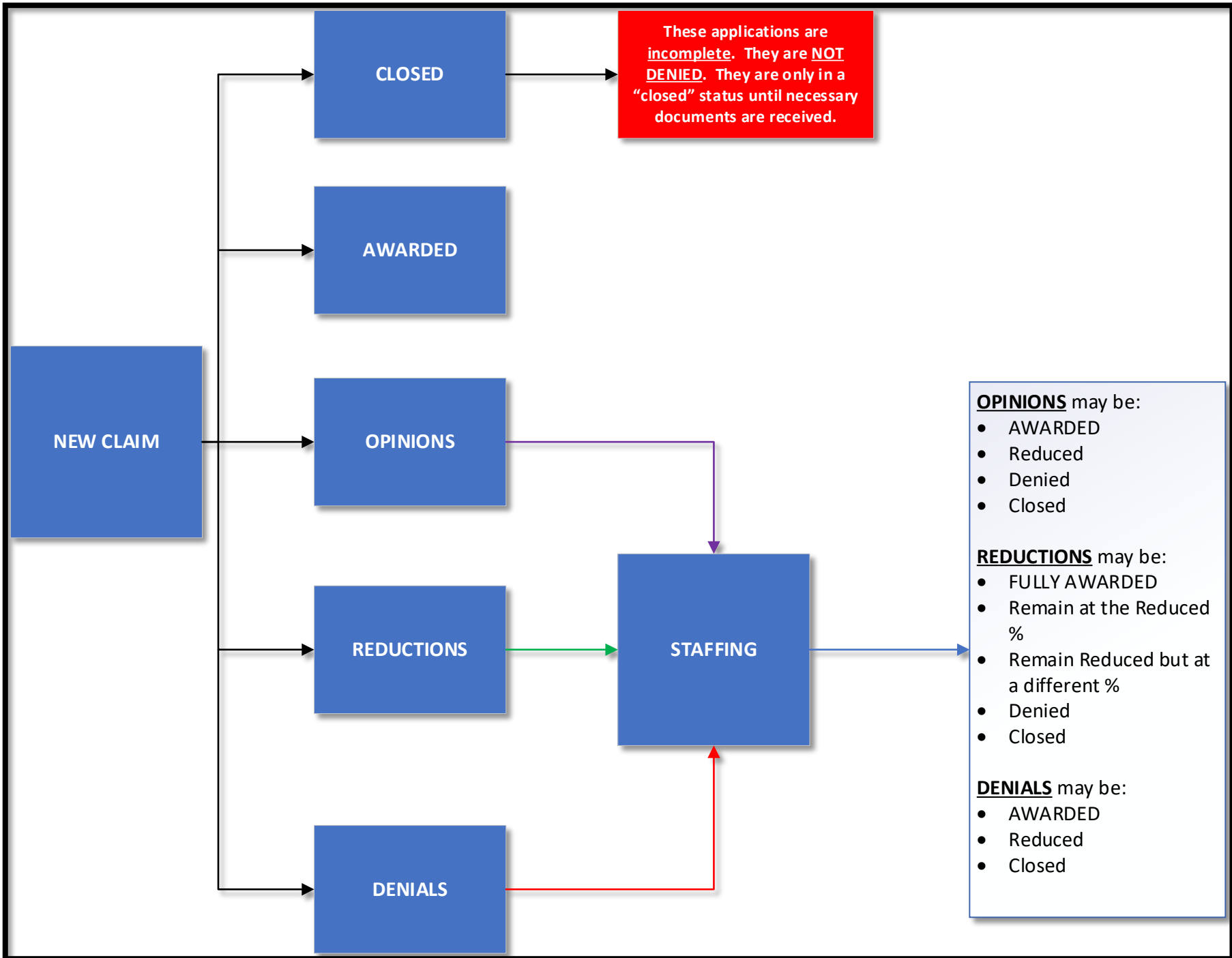
Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #219 Determine Claims' Eligibility

### Eligibility Criteria:

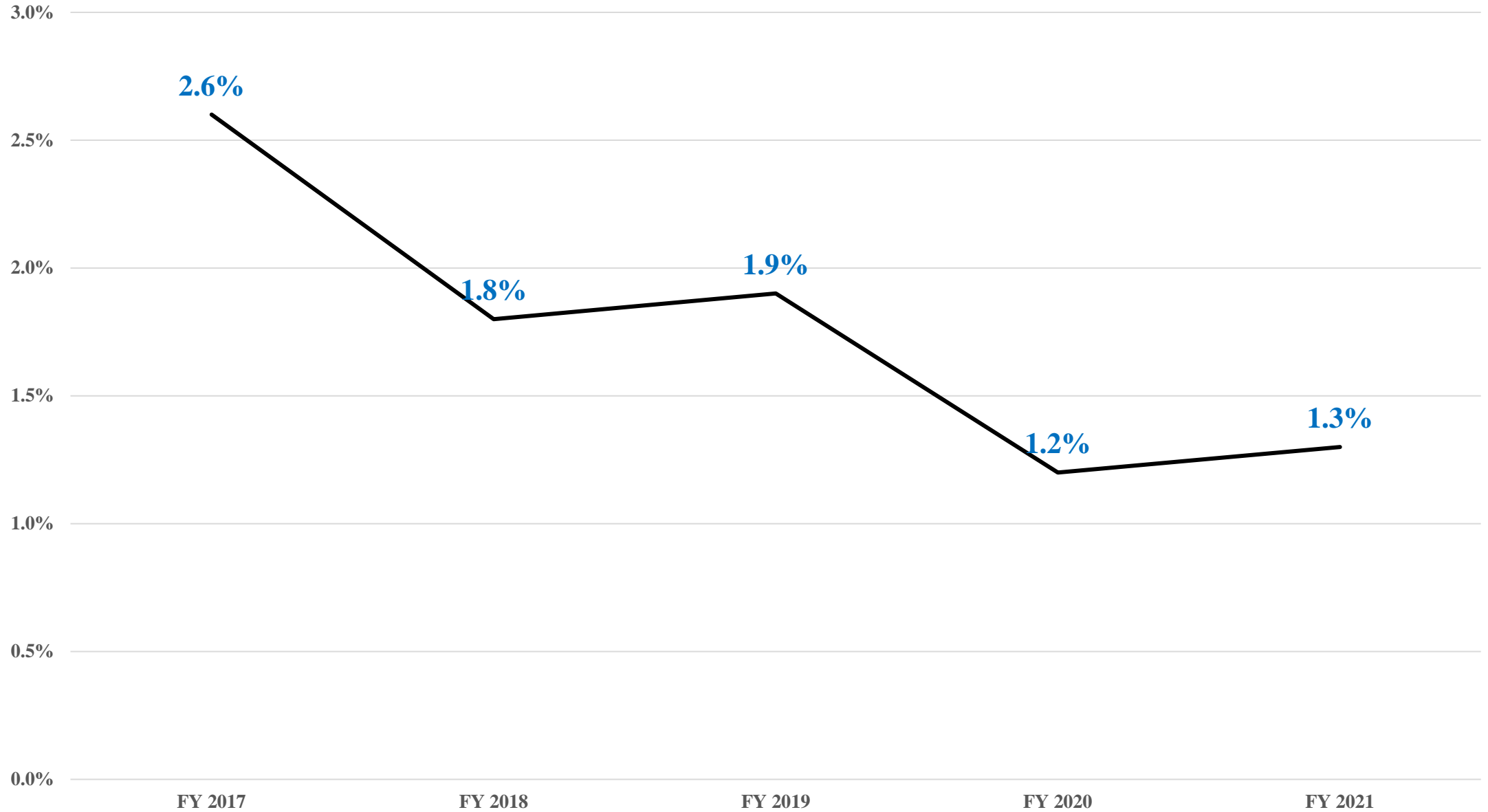
- Crime must occur in South Carolina
- Victim must sustain direct injury (physical and/or psychological)
- Victim must cooperate with law enforcement
- Crime must be reported within 48 hours (can be waived)
- Claim must be filed within 180 days of the incident (can be waived)
- If claim is not filed within 4 years of the incident, it is denied

\*Pursuant to statute, contributory conduct by the victim is also considered in eligibility determination.\*





# % Ineligible Claims



Does law require it:

Yes

Assoc. Law(s):

Section 16-3-1250; Section 16-3-1260;  
Section 16-3-1270

Purpose (as understood by agency):

Due to DCVC's position of payer of last resort, the staff ensures other sources of funds are exhausted before expending DCVC's funds.

Customers:

Crime victims/Claimants, Law enforcement personnel

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #224

### Oversee Restitution and Subrogation

- Compensation recovery department
- Recover compensation funds through restitution
- Recover compensation funds through subrogation

*Save funds due to Agency payer of last resort status*

**SECTION 8 Civil Action Information**Have you hired a lawyer to settle with insurance or file a lawsuit?  Yes  No

If yes, please provide: Name of Lawyer

Mailing  
Address

Phone #

**SECTION 9 Referral Source Information** Solicitor  LEVA  Hospital/Dr.  Counselor  Other 

Name/Title of Professional Assisting with Application

Phone #

Fax #

Agency/Office

Mailing Address

County

Referral's Email Address

**SECTION 10 Legal Authorization & Signature****This document is in compliance with the HIPAA guidelines.**

I understand that I am responsible for all bills and the compensation program is designated to pay certain costs not covered by another source. Submitting this application does not entitle me to benefits. I authorize the Department of Crime Victim Compensation (DCVC) to request, obtain, and release any information or records to determine the eligibility of my claim or to obtain restitution for a period not to exceed the full processing of this application. I further understand that there is a potential for me to no longer be protected by the Privacy Rule, and that I have the right to revoke this authorization in writing at any point I so desire. I agree to repay DCVC if I receive money from another source, up to the amount paid on my behalf. This includes any payment I may receive from the offender, any insurance policy or settlements, judgments, or civil law suits. I authorize DCVC to request and obtain any information including settlement disbursements, negotiated medical bills, and all other records related to subrogation from myself or representatives acting on my behalf.

**I agree to notify DCVC of any changes, such as address or phone numbers, to maintain accuracy in the processing of this claim. Incomplete or unsigned applications will not be accepted.**

*This information I have provided is true and correct to the best of my knowledge under penalty of law (§16-3-1280).*

**Original Signature of Victim/Claimant****Date**

*[Legal representative must sign if the Victim is under 18, legally declared incompetent or deceased]*

**Print Name of Above Victim/Claimant**



# Victim Restitution Task Force

- History of Task Force
- Current Status
- Related House Legislative Oversight Committee Finding/Recommendations from study of PPP

Members of the Task Force include representatives from the following agencies:

Attorney General's Office

- Division of Crime Victim Compensation
- Crime Victim Ombudsman
- Crime Victim Services

Department of Probation, Parole and Pardon Services

Department of Corrections

Department of Juvenile Justice

Court Administration

Prosecution Coordination Commission

Richland County Magistrate Court

Clerks of Court Association

University of South Carolina

SC Victim Assistance Network

Does law require it:

Yes

Assoc. Law(s):

Section 16-3-1110 Et Seq.

Purpose (as understood by agency):

Payments made to claimants and providers after determination of payer of last resort status.

Customers:

Crime victims/Claimants and victim service providers

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #220 Process payments

### Processing Steps:

- Review for proper documentation related to request, i.e. itemized invoice
- Review claim to ensure requests are compensable
- Review and analyze claim to determine if other payors involved, i.e. health insurance for hospital bills
- Audit payment for final authorization and send to SCEIS

### Types of Payments and Processing Times:

- To Victims/Claimants (Special Payments): 7-10 days
- To Providers: 7-14 days (DCVC Processing Services to SCEIS)

# Agency Service #225

Administer the Sexual Assault Program (SAP): Sexual Assault Protocol, Child Maltreatment Protocol (Chronic) and the Forensic Interview Protocol (FIP)

## Sexual Assault Program (SAP)

- Adult and child victims who report to the Emergency Department for an initial rape exam. (Evidence Collection)
- Law Enforcement referral mandatory for child victims.
- Adult victims (18 or older) may report anonymously and receive services.

## Child Maltreatment Protocol (Chronic)

- Sexual and/or Physical Forensic Exam.
- Must be referred by Law Enforcement to a Child Advocacy Center (CAC).
- Incident Report must have child listed as a victim.

## Forensic Interview Program (FIP)

- Must be referred by Law Enforcement to a Child Advocacy Center (CAC).
- Interview must be conducted by certified forensic interviewers.
- Incident Report must have child listed as a victim.
- Sexual and/or Physical Abuse

\*\*DCVC is the sole guarantor of payment for SAP.\*\*

\*\*Payment for services not covered by SAP must file a claim through the compensation program.\*\*

Does law require it:

Yes

Assoc. Law(s):

Section 16-3-1350

Purpose (as understood by agency):

DCVC is the primary payer of forensic cost for adult victims of sexual assault and child maltreatment forensic claims. Therefore, DCVC processes and pays claims from all entities performing these services at no cost to the victims.

Customers:

Crime victims, providers

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

Claims Processing



Does law require it:

Yes

Assoc. Law(s):

Section 16-3-1140

Purpose (as understood by agency):

DCVC provides claimants who are denied benefits the right to appeal to the DCVC Advisory Board.

Customers:

Crime victims/claimants

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #223 Manage Appeals

Victims/Claimants whose claims were denied have the right to appeal this determination by requesting a review by the Crime Victim Advisory Board.

The victim/claimant may request one of the following from the Board:

- *Hearing: **Appears** before the SC Crime Victim Advisory Board and request to speak on behalf of their appeal.*
- *Review: **Does not appear** before the SC Crime Victim Advisory Board but requests the Board to review the claim and appeal application.*

After the hearing or review, the Board may:

- Uphold the denial.
- Overturn the denial and award the claim in full.
- Overturn the denial and reduce the award.

Does law require it:

Yes

Assoc. Law(s):

Section 14-1-211.6

Purpose (as understood by agency):

DCVC Audit staff conduct audits to ensure compliance by municipalities and other entities regarding Act 141 statutory provisions.

Customers:

Municipalities, counties, non-profits and other entities

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #227 Oversee Act 141 Funds

Audit SC Municipalities, Counties and Non-Profit(s) who receive Act 141 Funds.

Auditing Team reached a 11-year milestone by recouping \$2,085,169.53 back into local victim assistance accounts.

\$1,243,620.50 collected from audits

\$841,549.03 collected from budget reviews

Auditing

Does law require it:

Yes

Assoc. Law(s):

Section 14-1-211.6

Purpose (as understood by agency):

DCVC Audit staff track funds recouped through Act 141 Audits.

Customers:

Municipalities, counties, non-profits and other entities

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #228 Oversee Act 141 Funds

Track funds recouped through audits.

**Audits are conducted as a result of:**

- 1) Complaints.
- 2) Budget reviews reveal red flag issues.
- 3) Follow up on completed audits by the State Auditor's office that have victim services recommendations.

Auditing

Does law require it:

Yes

Assoc. Law(s):

Section 14-1-211.6

Purpose (as understood by agency):

DCVC Audit staff conduct budget reviews to ensure compliance by municipalities and other entities regarding Act 141 statutory provisions.

Customers:

Municipalities, counties, non-profits and other entities

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #229 Oversee Act 141 Funds

### Budget Reviews

- 1) Conducted annually.
- 2) SC Municipalities, Counties and Non-profit(s) who receive Act 141 monies are subject to review.

Auditing

Does law require it:

Yes

Assoc. Law(s):

Section 14-1-211.6

Purpose (as understood by agency):

DCVC Audit staff track funds recouped through Act 141 budget reviews.

Customers:

Municipalities, counties, non-profits and other entities

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #230 Oversee Act 141 Funds

Track funds recouped through budget reviews.

- Monies recouped are deposited back into the victim assistance accounts.

### Proviso 59.15

- Entities must spend 90% of victim assistance funds.
- If the municipality or county does not spend at least 90%, then they can only carry forward \$25,000 or 10% of what was collected in the prior fiscal year, whichever is greater.

Auditing

Does law require it:

Yes

Assoc. Law(s):

Section 14-1-211.5

Purpose (as understood by agency):

DCVC Audit staff shall offer training and technical assistance to each municipalities and counties on Act 141 funds.

Customers:


Municipalities, counties, non-profits and other entities

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #231

Oversee Act 141 funds

Offer training and technical assistance to each municipality and county annually on the acceptable use of Act 141 funds.



Training

Does law require it:

Yes

Assoc. Law(s):

Section 16-3-1120(A)

Purpose (as understood by agency):

DCVC staff educates advocates and allied professionals about the benefits and services provided by the Agency.

Customers:

Victim advocates, law enforcement personnel, victim service providers, and victims/claimants...

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #221

### Outreach

Develop and administer a plan for informing the public of the availability of benefits and services and educate on the procedures for filing compensation claims.

### Outreach Events

- City of Columbia Annual Mayor's Walk Against Domestic Violence
- Youth Symposium, City of Blackville Police Department
- York County Victim Services Fair

Outreach

Does law require it:

Yes

Assoc. Law(s):

Section 16-3-1120(A)

Purpose (as understood by agency):

DCVC staff trains advocates and allied professionals about the benefits and services provided by the Agency.

Customers:

Victim advocates, law enforcement personnel, victim service providers, and victims/claimants...

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #222

### Outreach

Conduct trainings and disseminate publications to victim advocates, law enforcement personnel, victim service providers, victims and the community.

### Trainings

- DCVC Basic Core Course
- HIV nPEP (non-Occupational Post Exposure Prophylaxis) Program
- Sexual Assault Program
- Lost Wages
- Compensation Recovery

Training



Does law require it:

Yes

Assoc. Law(s):

Proviso 59.10

Purpose (as understood by agency):

DCVC distributes excess compensation funding to all 16 Solicitor's Offices in the state to provide victim services.

Customers:

Solicitor's offices

Note: Number of customers served, units provided, and cost per unit will be updated after the presentation

## Agency Service #232

### Distribute Victim/Witness Program Funds

\$650,000 distributed equally to the 16 Judicial Circuit Solicitor Offices, quarterly.

*\$10,156.25 per quarter, per circuit*

*\$40,625.00 per year, per circuit*

*(Note: In FY2021, SCCPC provided the Combined Statewide Solicitor Victim Services Financial and Programmatic Report to the SC Attorney General)*



**Alan Wilson**  
*Attorney General*

**B.J. Nelson**  
*Director*

# Associated Performance Measures

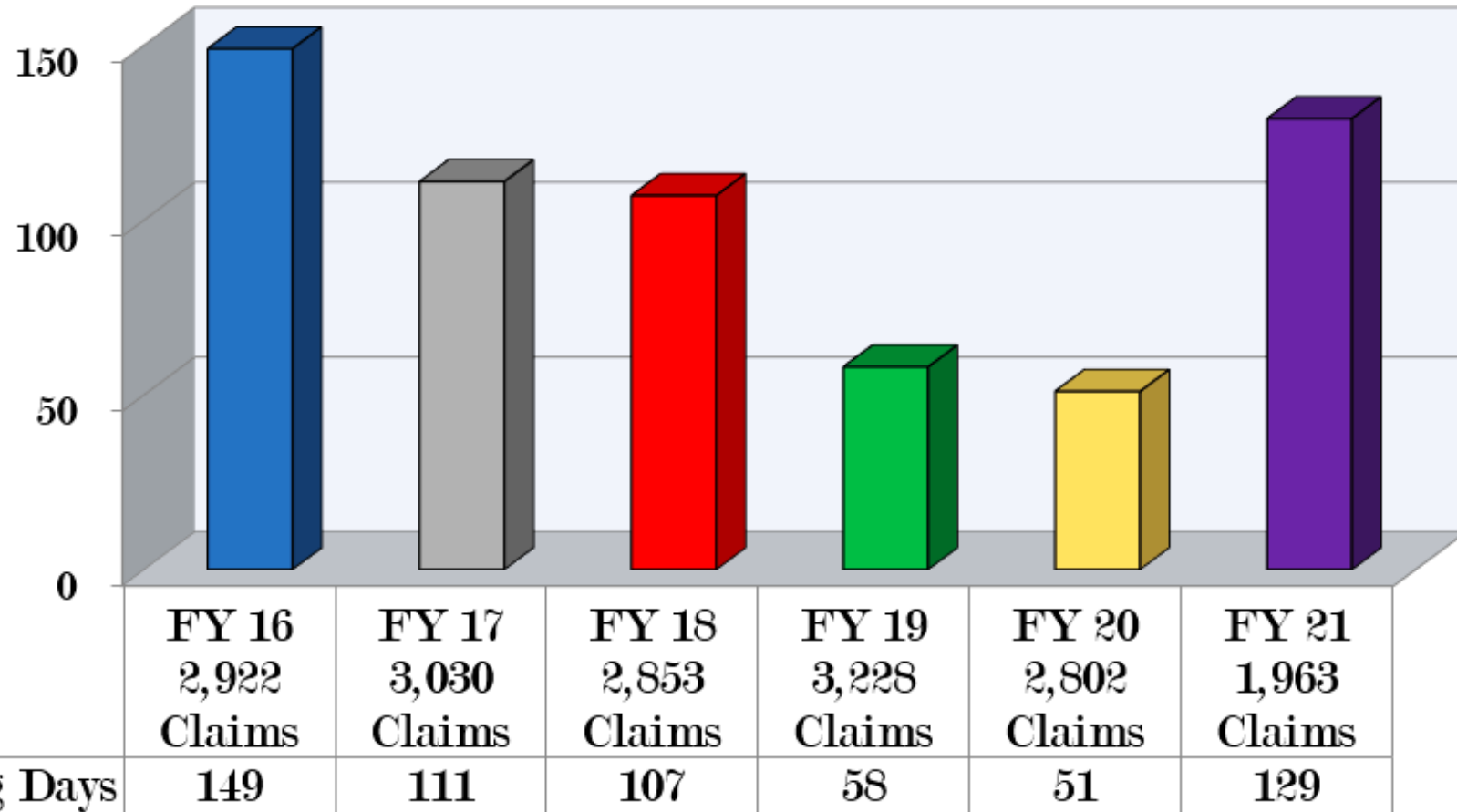
The next slides only contain information on performance measures that are associated with services covered earlier in this presentation.

# Claims Received & Payments Made

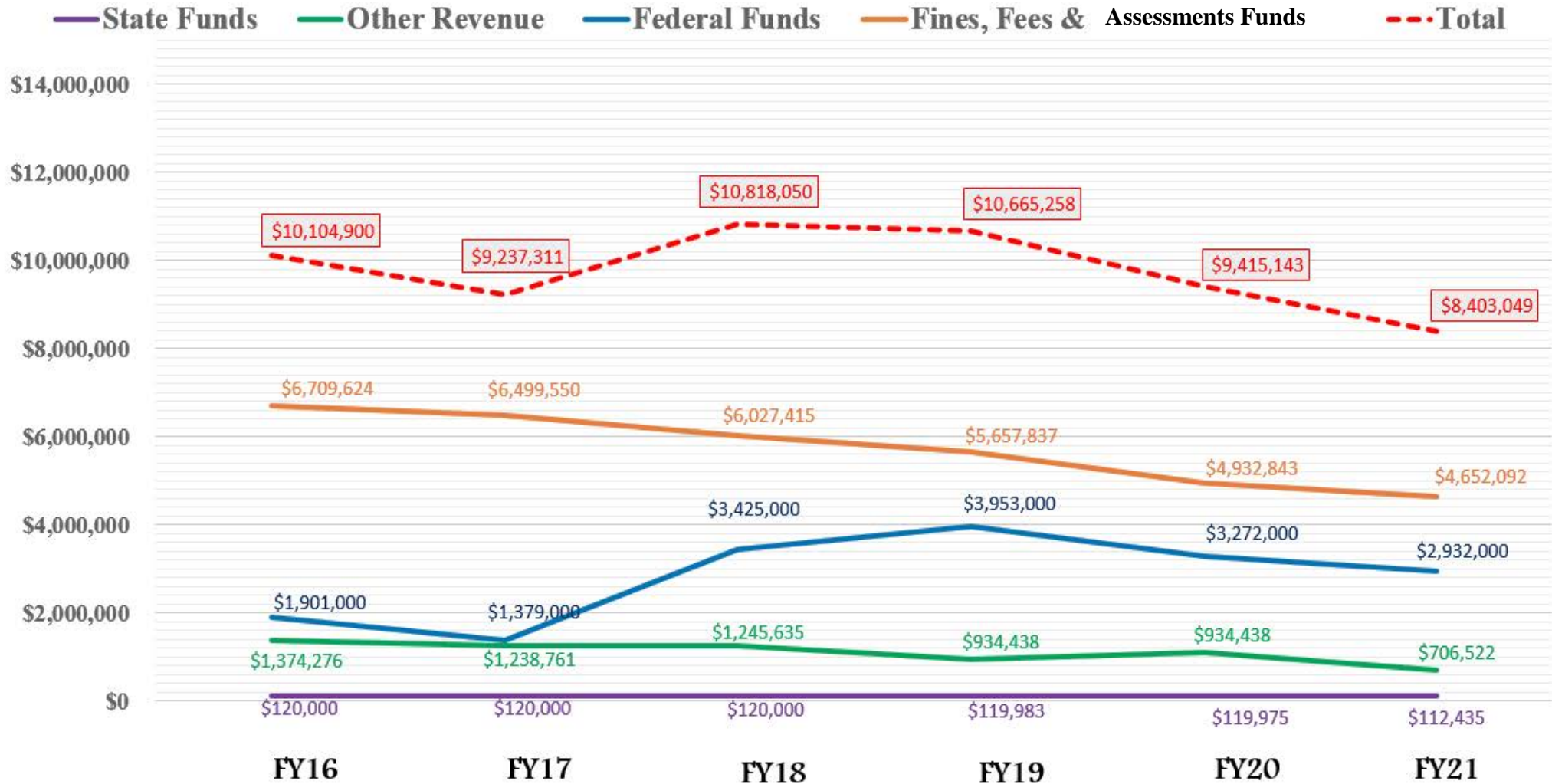
Type of Claims	FY 17	FY 18	FY 19	FY20	FY21
Claims Received	8,627	7,967	9,113	7,092	5,881
Number of Payments Made	8,933	8,123	9,363	8,211	4,595

- |   |   |                 |                 |              |
|---|---|-----------------|-----------------|--------------|
|   |   | <b>Eligible</b> | <b>Received</b> |              |
| • Compensation Claims (FY21)            |   | 2,127           | 2,608           |              |
| • Sexual Assault Forensic Claims (FY21) | + | <u>2,631</u>    | +               | <u>3,273</u> |
|   |   | <b>4,758</b>    |                 | <b>5,881</b> |
- Claims Approval Rate (FY21) **81%\***

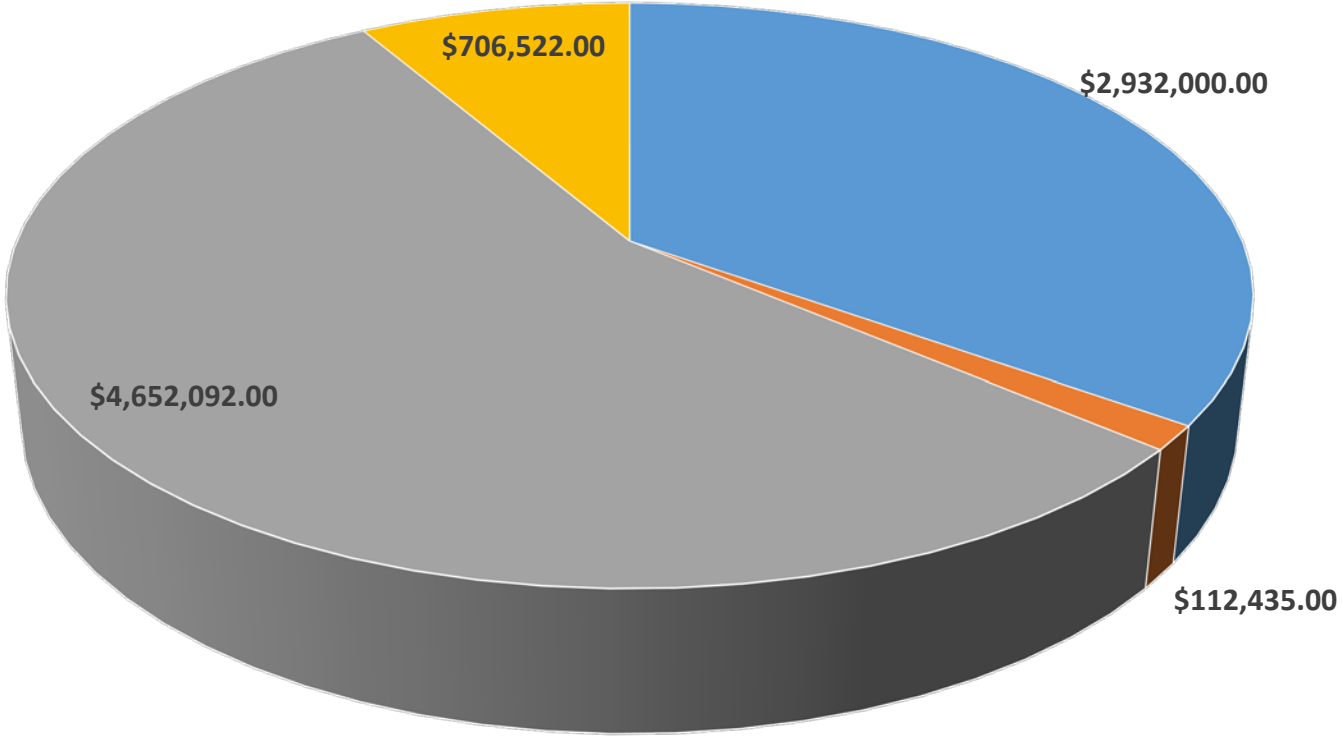
# Average Eligibility Processing Time For Claims



# Revenue

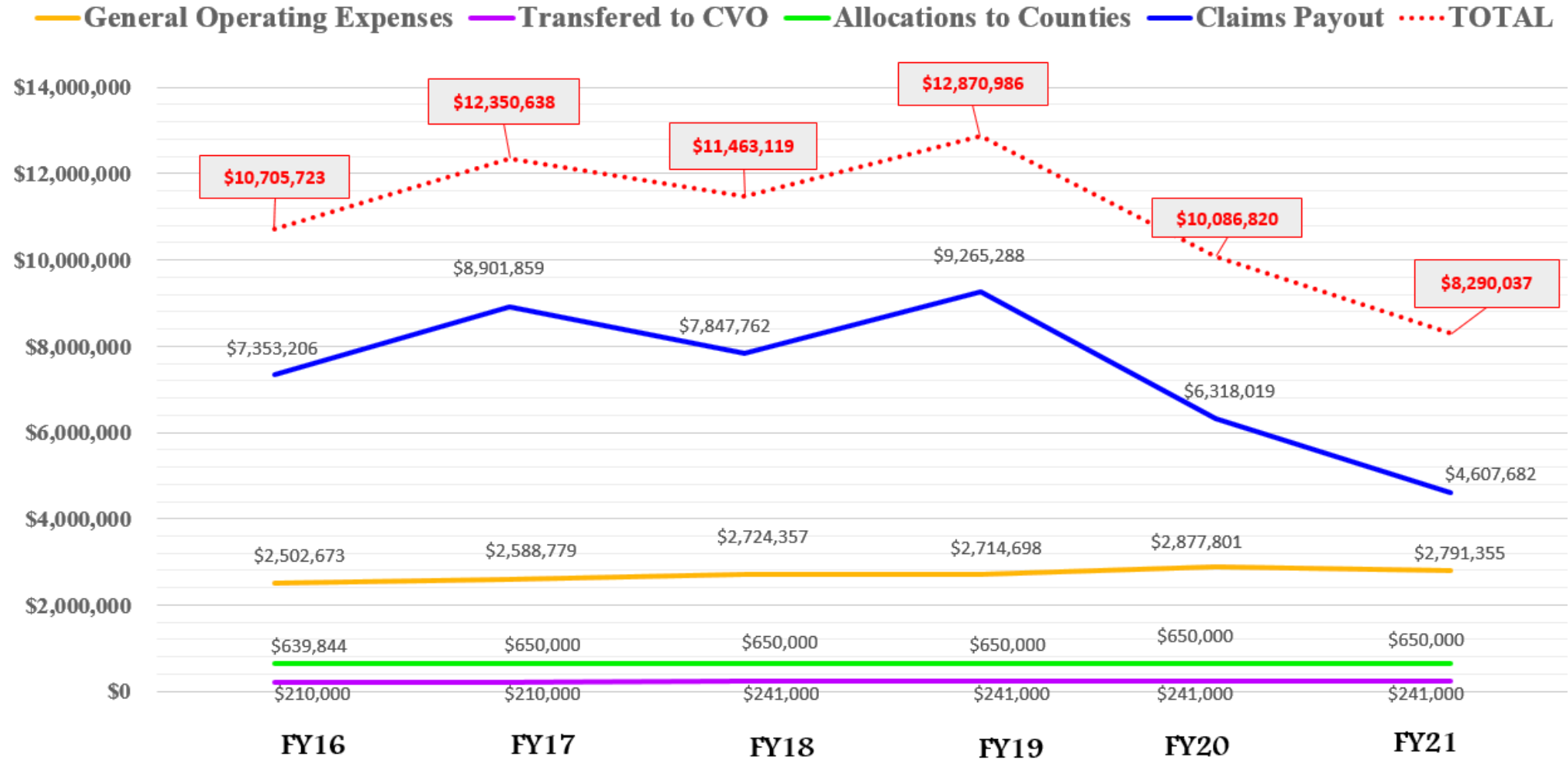


# Funding Sources FY 2021

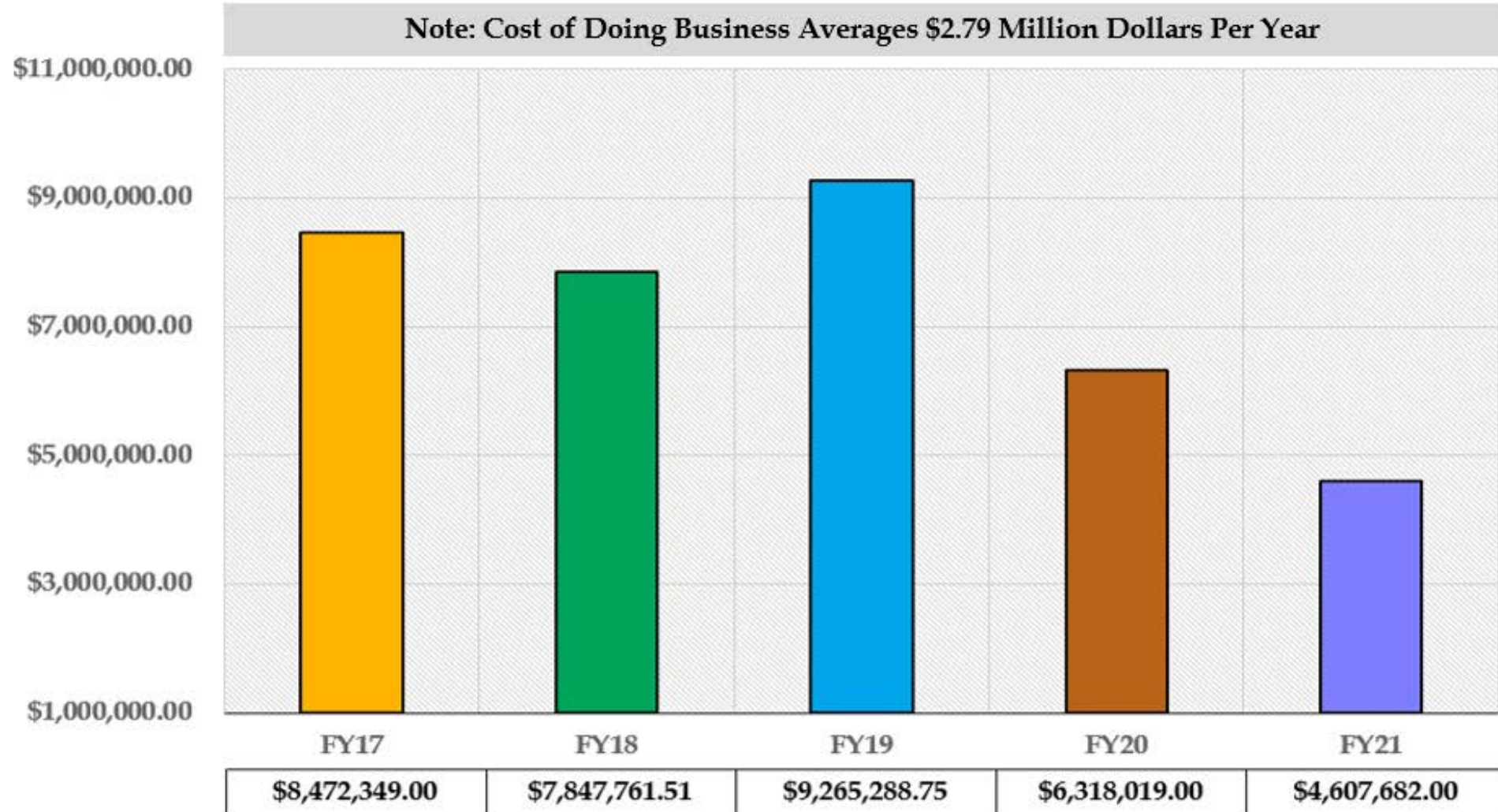


■ Federal ■ State ■ Fines, Fees & Assessments ■ Other

# Expenditure Breakdown

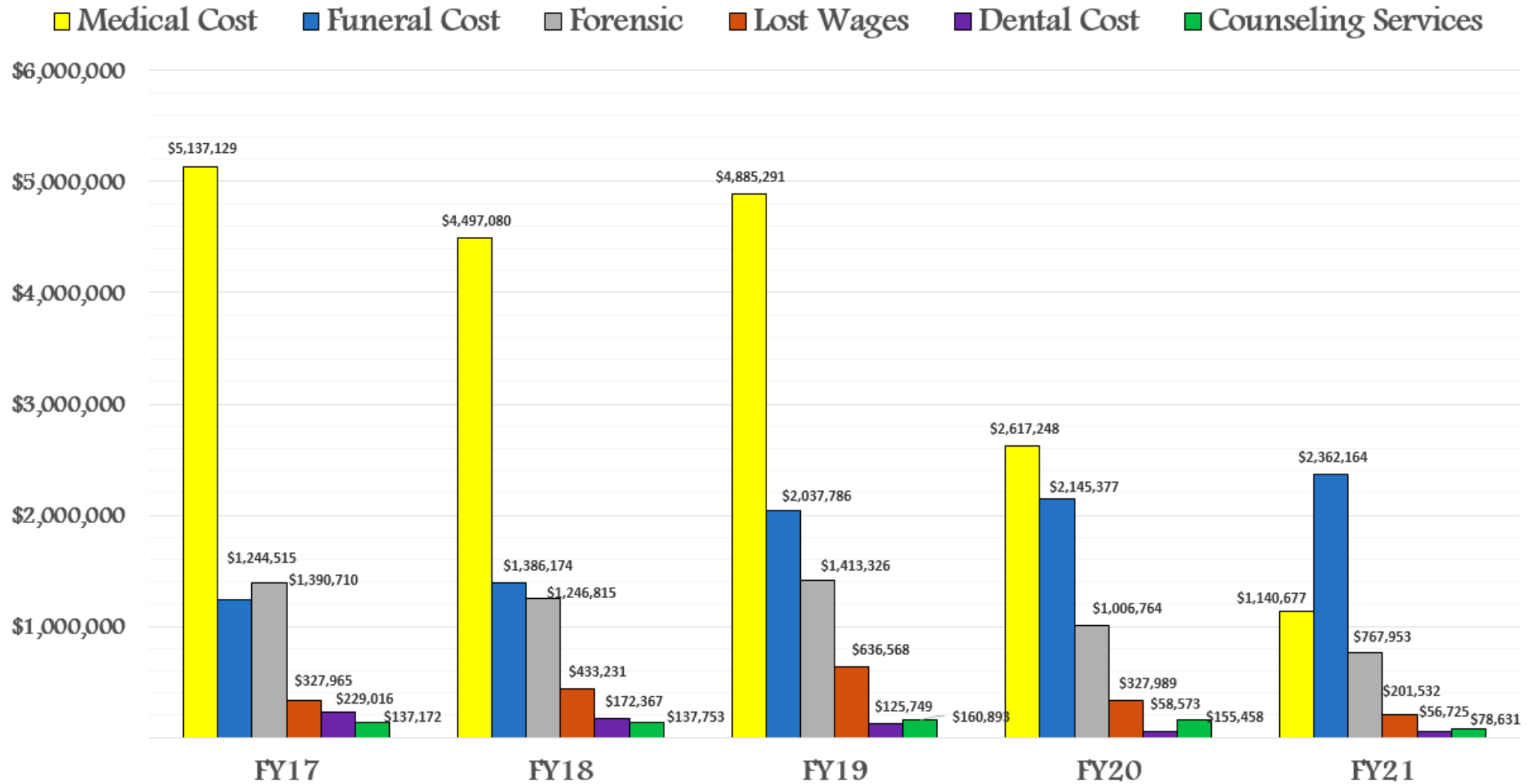


# Money Paid On Claims



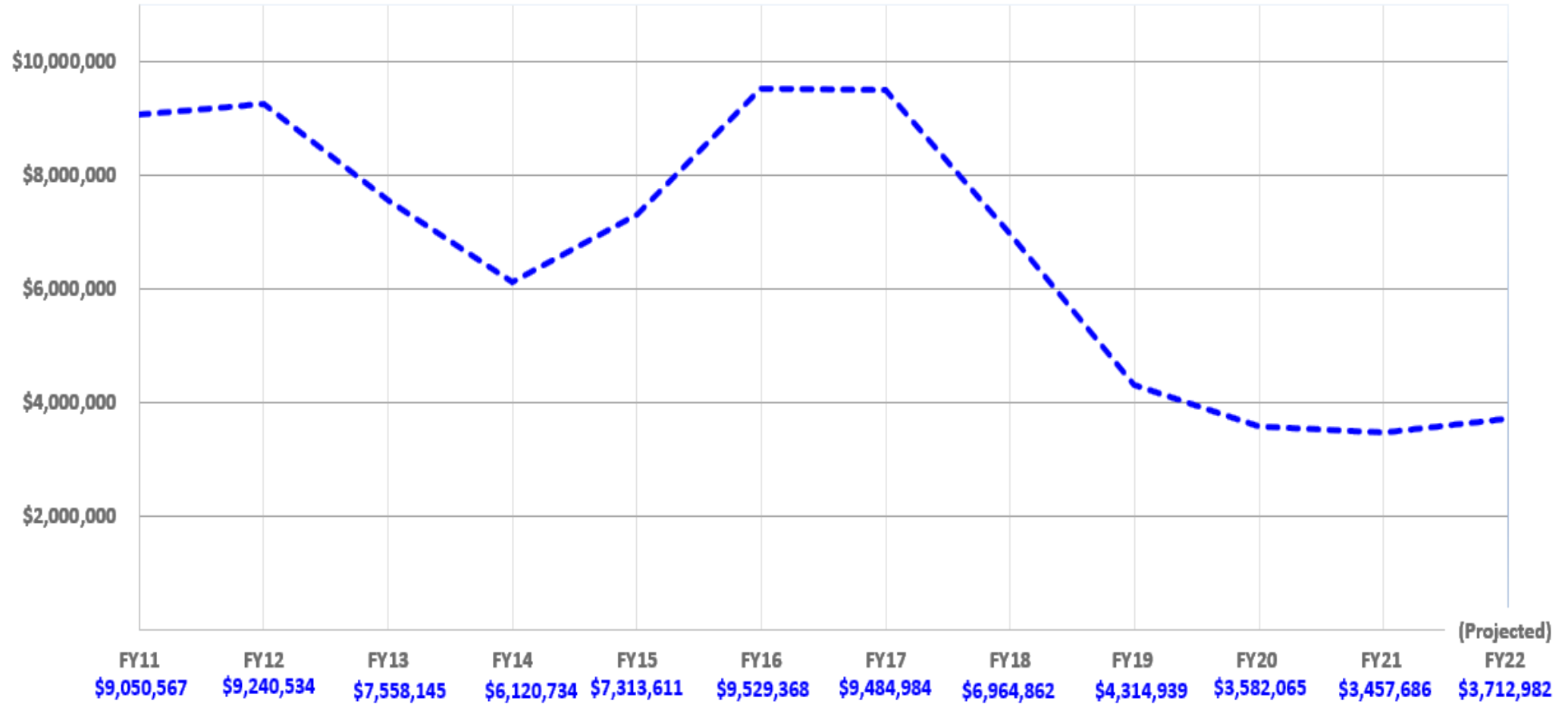


# Compensation Claims Payout



# Beginning Carry Forward

--- TOTAL





**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 Compensation

**Alan Wilson**  
*Attorney General*

**B.J. Nelson**  
*Director*

## SUCCESSSES

- \$3.2 Million Recurring Appropriation from the General Assembly for DCVC.
- The federal VOCA Fix legislation passed the week of July 19, 2021.
- DCVC will begin receiving 75% federal reimbursements on our state expenditures up from 60%. Estimated \$1.9M next year.
- We will no longer be penalized for restitution recovery by OVC or have to deduct this from state expenditures. Estimated \$381K.



# Crime Victim Compensation

**Alan Wilson**  
*Attorney General*

**B.J. Nelson**  
*Director*

## CONCERNS

- DCVC completed writing the Request for Proposal (RFP) for a new victim compensation and sexual assault claims management system. The RFP is now under review by the State Procurement's Information Technology Management Office (ITMO).

AGENCY PRESENTATION – SOLICITOR GENERAL AND  
OPINIONS SECTION

# Overview of Divisions

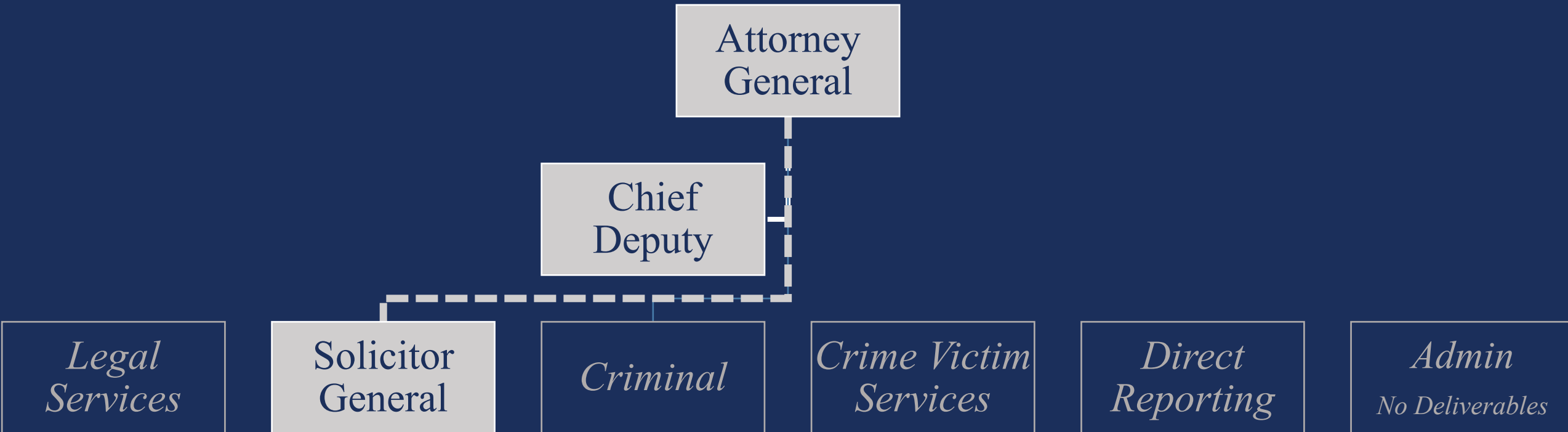
The seal of the Office of the Attorney General of the State of South Carolina is visible in the background. It features a central figure holding a scale and a sword, surrounded by a circular border with the text "OFFICE OF THE ATTORNEY GENERAL" and "STATE OF SOUTH CAROLINA".

SOLICITOR  
GENERAL



**Alan Wilson**  
*Attorney General*

**Bob Cook**  
*Solicitor General*





# Solicitor General

## Background

- Position was initiated by AG Wilson following the National Association of Attorney General's (NAAG) review in 2013
- This formalized an existing relationship, and the organizational structure followed
- Follows similar structures in other states and best practices

## Responsibilities

- Supervises and collaborates on complex and strategic civil litigation including appellate advocacy.
- Assures consistency of legal positions/theories across divisions within the AG's office
- Note: Different division may be lead on determining the position/theory
- Evaluates quality of written and oral advocacy of Office of Attorney General lawyers (civil, not criminal)
- Reviews NAAG and other amicus requests and sign on letters
- Includes Opinions Section
  - Separate section formalized in 1984
  - Made part of Division when Solicitor General established

# Personnel

	Turnover	Number of Employees	
		Leave unit during year	In unit at end of year
2016-17	0%	0	7
2017-18	0%	0	7
2018-19	17%	1	6
2019-20	0%	0	7

## *Exit interviews or surveys conducted?*

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

## *Employee satisfaction tracked?*

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



# Personnel

Solicitor General: Bob Cook

Administrative Coordinator: Joanne Lee

## Opinions

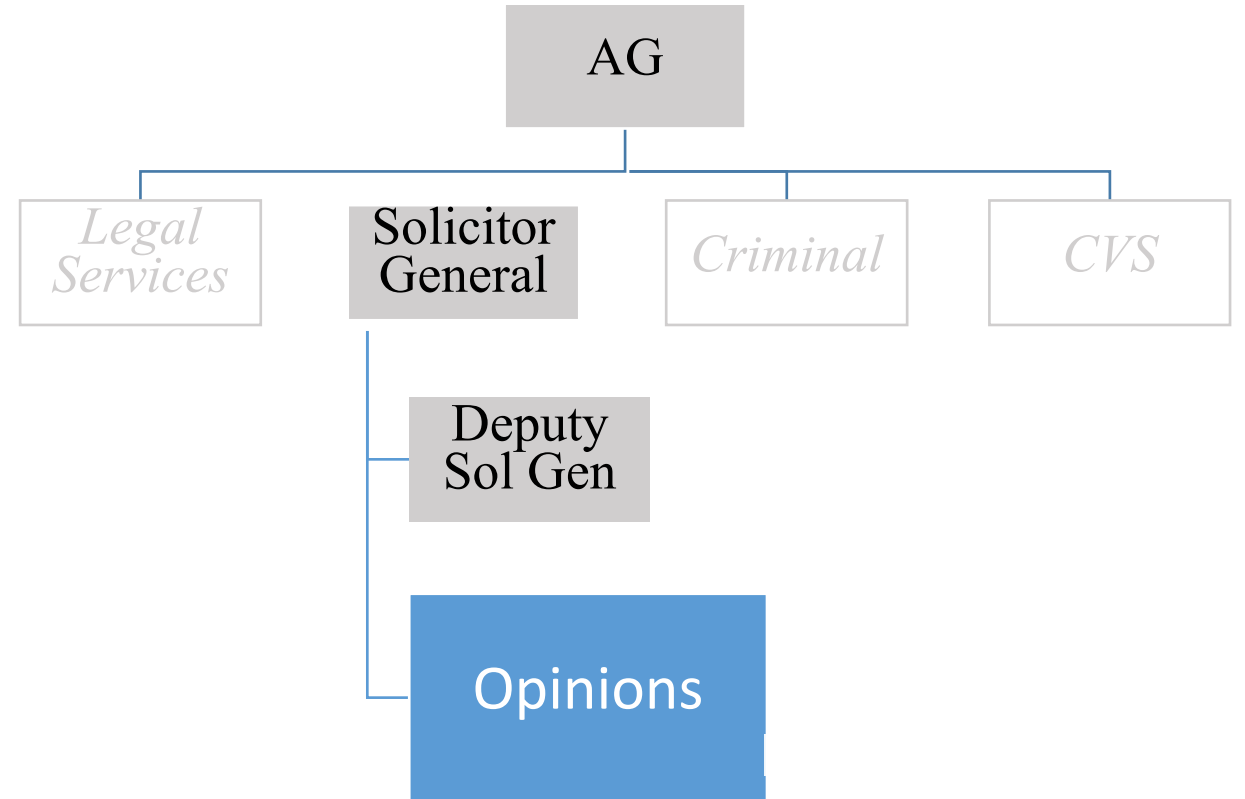
- Matt Houck, Assistant Attorney General (AAG)
- David Jones, AAG
- Ellie Lister, AAG
- Cydney Milling, AAG

## Deputy Solicitor General

- Emory Smith, Deputy Solicitor General (DSG)
- Thomas Hydrick, Asst. DSG



# Opinions Section



# Formal Opinions, Unpublished Advice, and Other Resolutions

Formal legal opinions are one of the oldest responsibilities of the Office

## What is the purpose?

- Assist in understanding of existing laws
- Attempt to resolve question as a court would decide (i.e., not advocating for one position or another)

## What cannot be answered?

- Examples: Findings of fact (cannot decide factual disputes); Issues impacting pending court case

# Formal Published Opinions

## Who can request one?

- Governor
- All 170 General Assembly Members
- Other S.C. public officials (e.g., state agency; city/county council as a body; magistrates; sheriff's office)

## Weight and Review

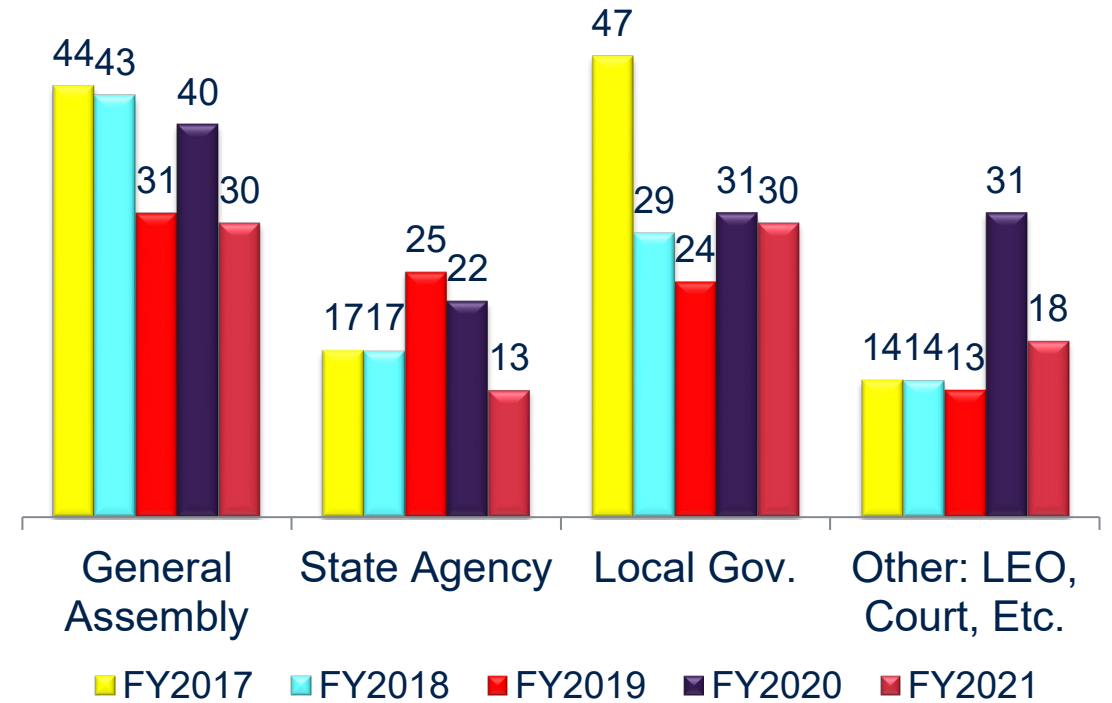
- Advisory, but courts have given deference in the past
- All are reviewed by the Solicitor General

## Location

- 1878-1994 Opinions: Dept. of Archives and History
- 1959-present Opinions: Lexis or Westlaw
- 1974-present Opinions: AG website
  - Searchable by category or general terms
  - No guarantee all are online; opinions may not be posted for a variety of reasons

## Number Requested

Some requests carry over to the subsequent fiscal year, but none are left unresolved.

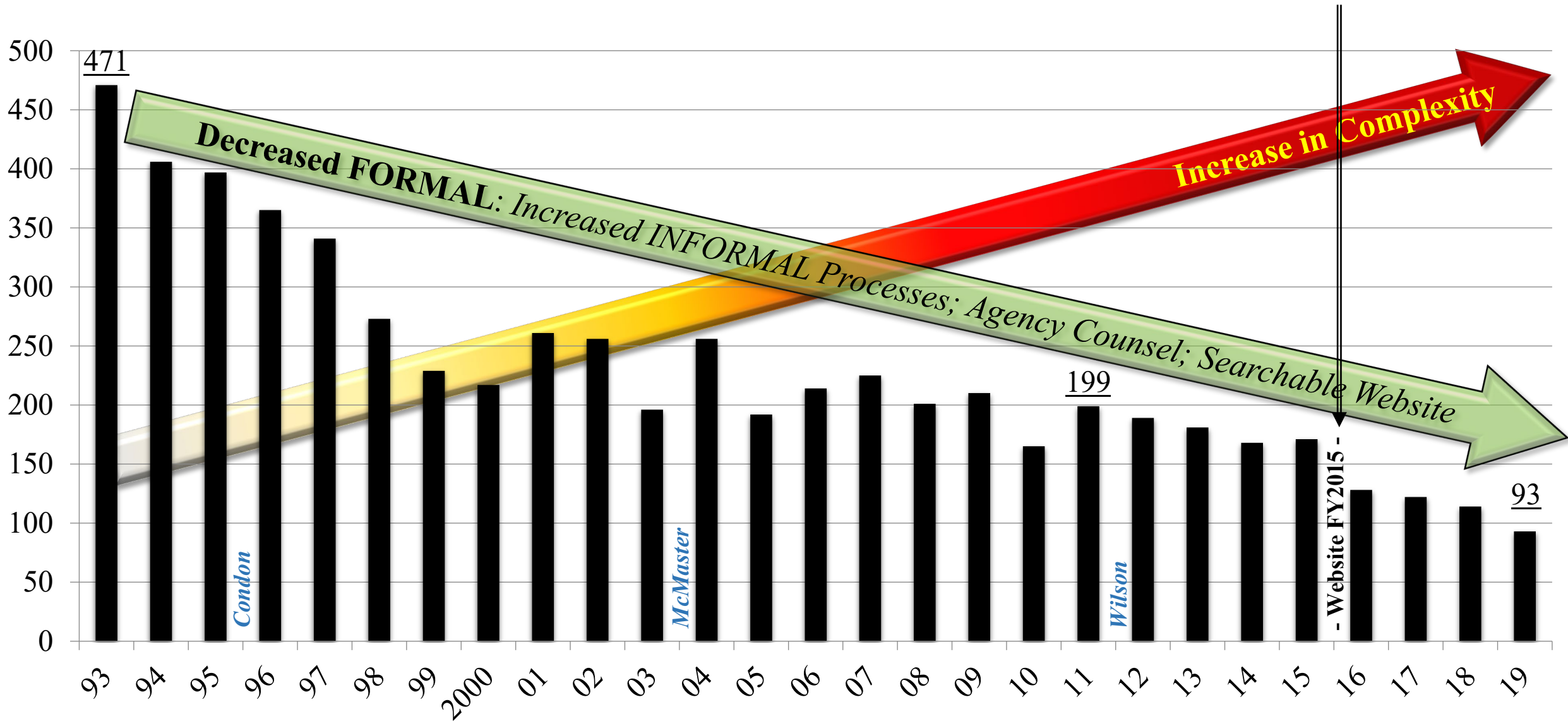


		Employee equivalents	Total Cost of service	% of total agency costs			Employee equivalents	Total Cost of service	% of total agency costs	
Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; Section 1-7-90	Agency Service #89: Formal Opinions Issued to General Assembly Members and Governor	2016-17	2.32	\$186,793.01	0.95%	Agency Service #90: Formal Opinions Issued to Other S.C. Public Officials	2016-17	2.30	\$168,894.77	0.86%
		2017-18	2.32	\$213,512.13	0.36%		2017-18	2.30	\$200,624.38	0.34%
		2018-19	2.32	\$206,673.94	0.31%		2018-19	2.30	\$187,754.09	0.28%
		2019-20	2.29	\$214,711.54	0.28%		2019-20	2.09	\$207,002.90	0.27%
	Does law require it: Yes					Does law require it: No				

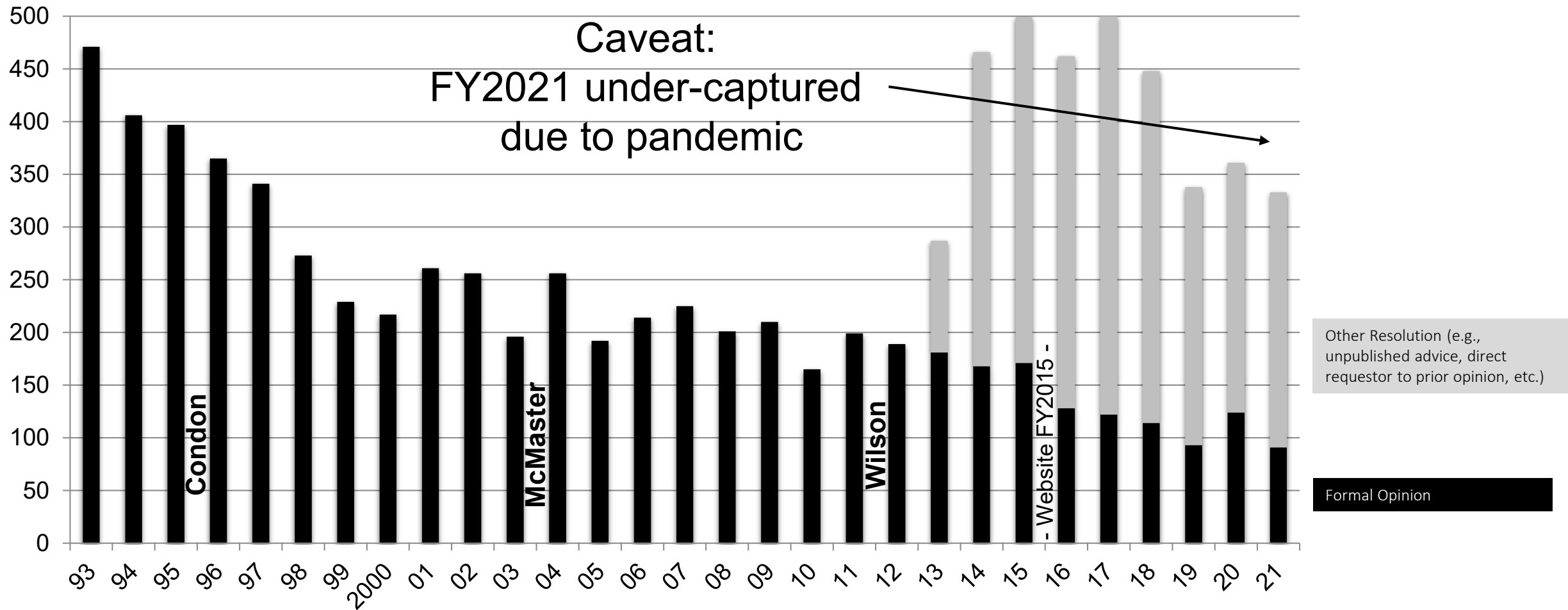
# Formal Opinion Requests

by Fiscal Year

Note: Decrease in formal opinions may be increase in availability of prior opinions, increase in counsel for individual agencies, etc.



# Resolutions in Perspective





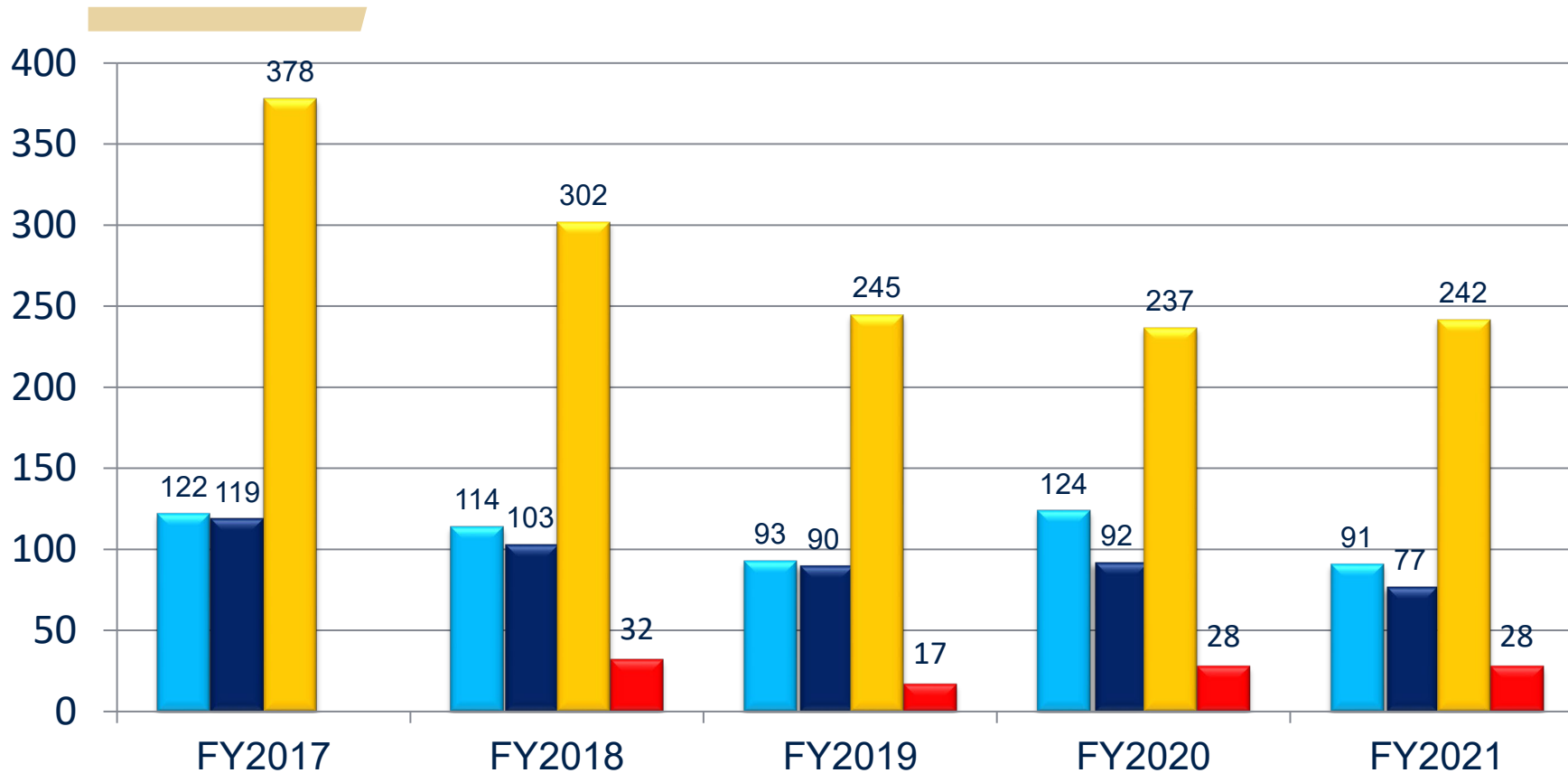
# Unpublished Advice and Other Resolutions

- Attorney General occasionally provides substantive legal advice to public officials consistent with Section 1-7-40 without issuing a comprehensive formal opinion.
- Attorney General also seeks to resolve requests for past opinions or other requests for legal advice or direction in a manner consistent with the mission and resources of our agency.
- Provides public officials from S.C., other states, and federal government with succinct legal analysis to understand existing S.C. laws and inform official actions.
- General public also benefits from access to copies of all published formal opinions on a public website and receipt of specific prior opinions when requested.
  - Any member of the general public is a potential customer in that they may request a copy of a prior opinion and may access those opinions on our public website. For FY2020, the 237 figure is known to under-represent the actual number, which is unknown due to COVID disruptions to workflow (Solicitor General worked from home).

## Agency Service #91: Unpublished advice and other resolutions

				<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: No	Customers:	Single Unit:	2016-17	378.00	\$208.72	1.01	\$78,897.67	0.40%
	SC public officials and members	Email, telephone	2017-18	335.00	\$260.04	1.01	\$87,113.95	0.15%
Assoc. Laws: Section S.C. Const. Art IV § 24, Art. V § 28; Section 1-7-90	of the general public that	conversation, and/or	2018-19	262.00	\$334.74	1.01	\$87,700.66	0.13%
	request opinions	conveyance of prior opinion	2019-20	237.00	\$419.91	1.03	\$99,519.33	0.13%

# Formal Opinions, Unpublished Advice, and Other Resolutions: 5 Year History



■ Opinions Requested  
 ■ Other Resolutions

■ Opinions Issued  
 ■ Unpub. Advice (first tracked FY2018)

Note:

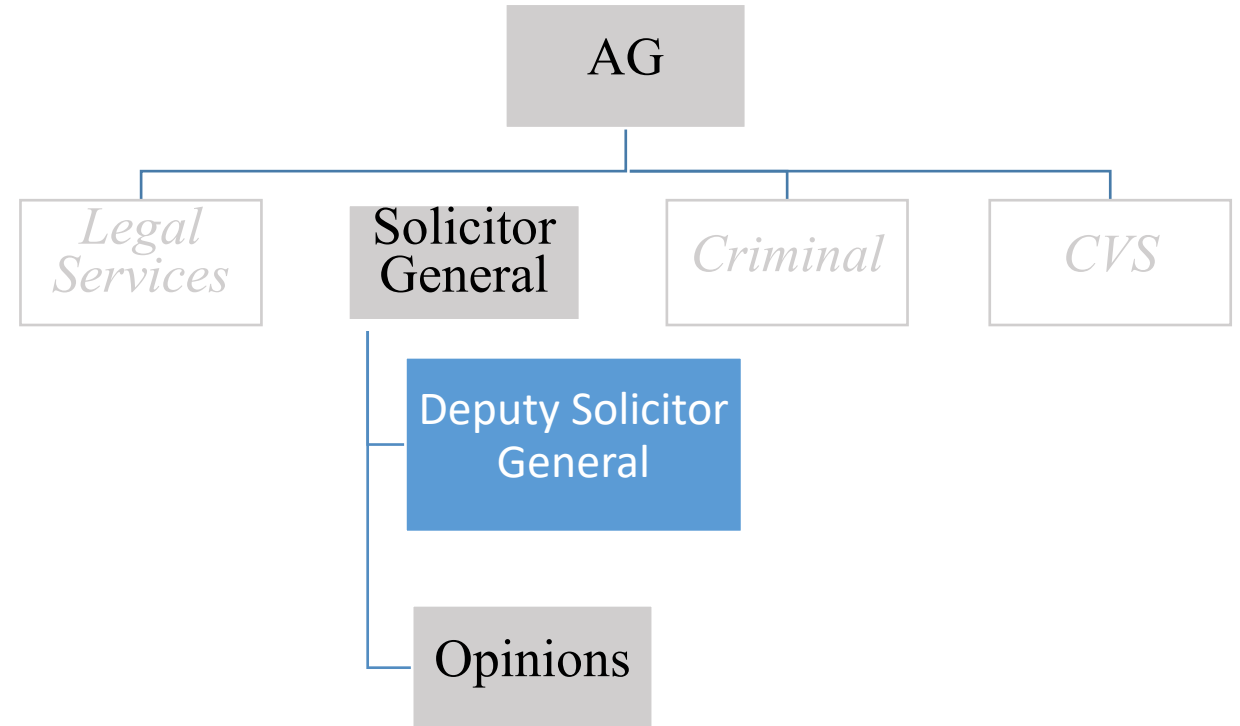
- Unpublished advice often addresses situations outside the parameters of formal opinions (e.g., advice on S.C. law for a federal agency). It requires more work than other resolutions, but less work than formal published opinions. Other resolutions include emailing copies of prior opinions from AG’s website, phone calls, etc.



SOUTH CAROLINA  
 ATTORNEY GENERAL'S OFFICE



# Deputy Solicitor General Section



# Deputy Solicitor General

The Deputy Solicitor General assists in strategic legal policy

Three primary areas include:

- Major court cases impacting policy, including:
  - Federal court civil cases
  - Major or strategic State court civil cases
- Amicus Briefs
- “Sign-on” letters

# State Legal Policy

## Coordination of State Legal Policy

- As the State's chief legal officer, Attorney General ensures that the legal positions of the State are coordinated, unified, coherent, and consistent.

## Communication of State Legal Policy to Public

- Attorney General ensures the public understands the legal positions of the State by explaining them in a way that can be understood by non-lawyers.
- This may take the form of coordination with the Communications section or directly with the Attorney General in preparing for speeches or press conferences.

### Agency Service #99: Coordination of State Legal Policy

Does law require it: No

Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; see also Cooley, et al. v. South Carolina Tax Commission, 204 S.C. 10, 28 S.E.2d 445, 450 (1943) (role of the SCAG as the State's chief legal officer).

Purpose:

The State is best served when the public understands the legal positions of the State in matters of public interest.

	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
2016-17	0.17	\$21,773.19	0.11%
2017-18	0.17	\$22,378.80	0.04%
2018-19	0.17	\$23,500.41	0.04%
2019-20	0.17	\$23,566.67	0.03%

### Agency Service #100: Communication of State Legal Policy to Public

Does law require it: No

Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; see also Cooley, et al. v. South Carolina Tax Commission, 204 S.C. 10, 28 S.E.2d 445, 450 (1943) (role of the SCAG as the State's chief legal officer).

Purpose:

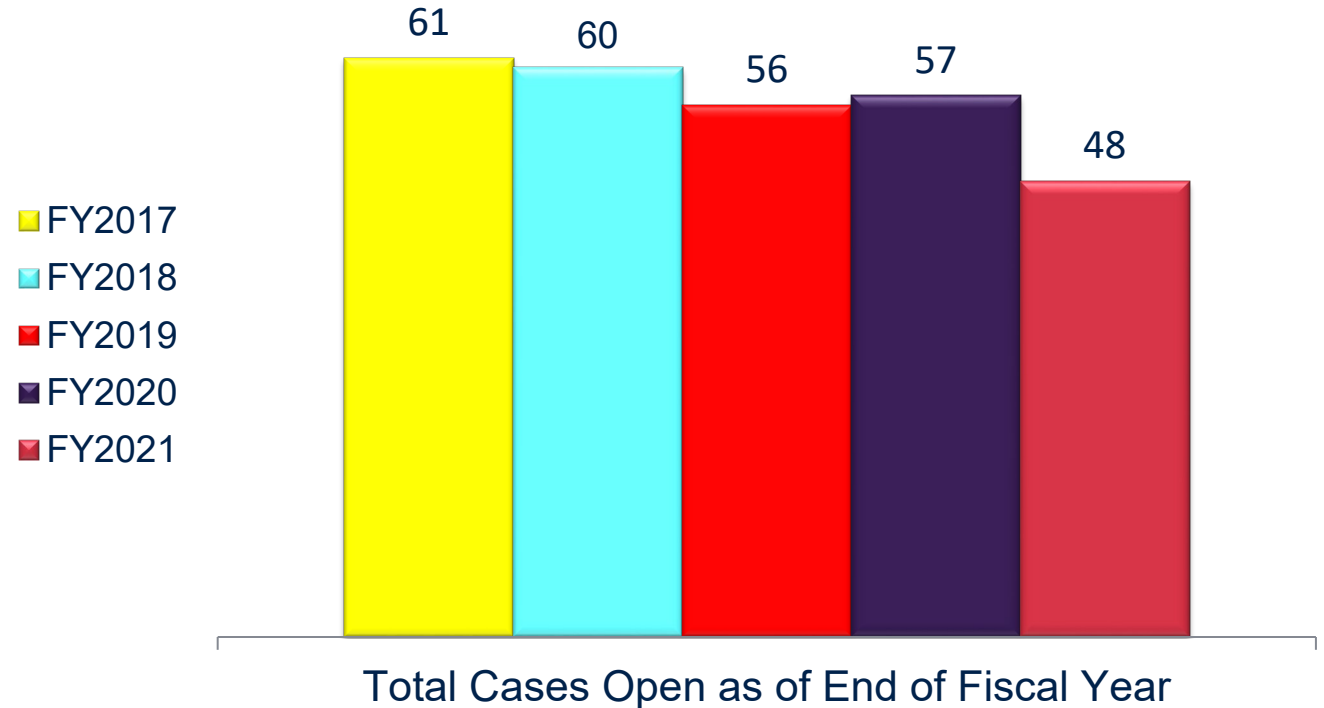
The State is best served when the public understands the legal positions of the State in matters of public interest.

	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
2016-17	0.04	\$4,354.64	0.02%
2017-18	0.04	\$4,475.76	0.01%
2018-19	0.04	\$4,700.08	0.01%
2019-20	0.04	\$4,713.33	0.01%

# Major Litigation

## Solicitor General Division v. Civil Division

- Solicitor General leads and collaborates on complex and strategic litigation
  - Takes lead on cases that may impact policy of the state (e.g., State Constitution interpretation)
  - Takes lead on certain complex litigation
  - May collaborate on other matters (e.g., direction legislature is working with federal issues, multi-state actions)
- Civil Division handles broad array of matters; Solicitor General Division focuses on a particular subset



Note: FY2021 reduction due to closure of dormant cases.

## Agency Service #92: Major Litigation

Does law require it: Yes

Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; Section 1-7-90

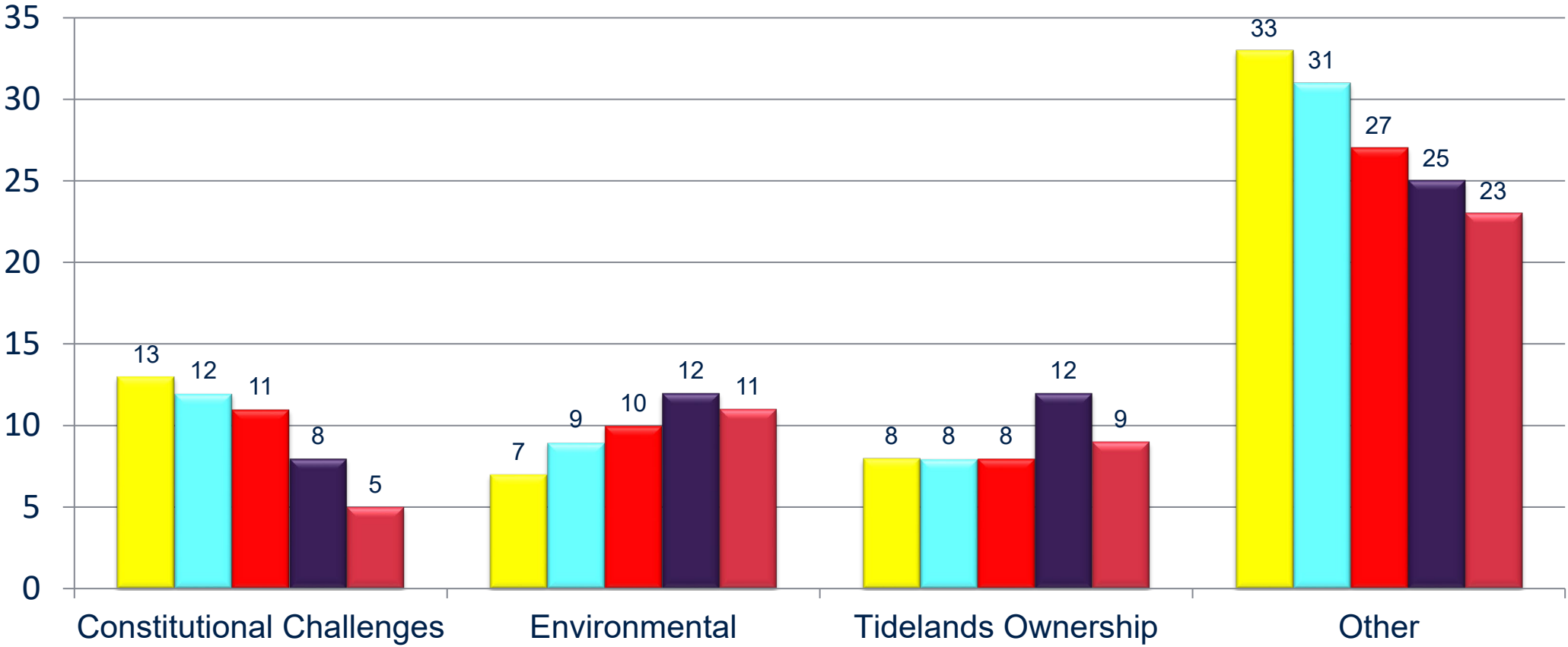
Purpose:

As the State's chief legal officer, the Attorney General ensures that the State's interests are diligently represented in major litigation.

Single Unit:  
Cases open at  
year end

	Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
2016-17	Not provided	Insufficient data	1.92	\$245,608.44	1.25%
2017-18	Not provided	Insufficient data	1.92	\$253,660.66	0.43%
2018-19	Not provided	Insufficient data	1.92	\$266,415.05	0.40%
2019-20	57.00	\$4,709.07	1.92	\$268,417.11	0.35%

# Litigation by Subject



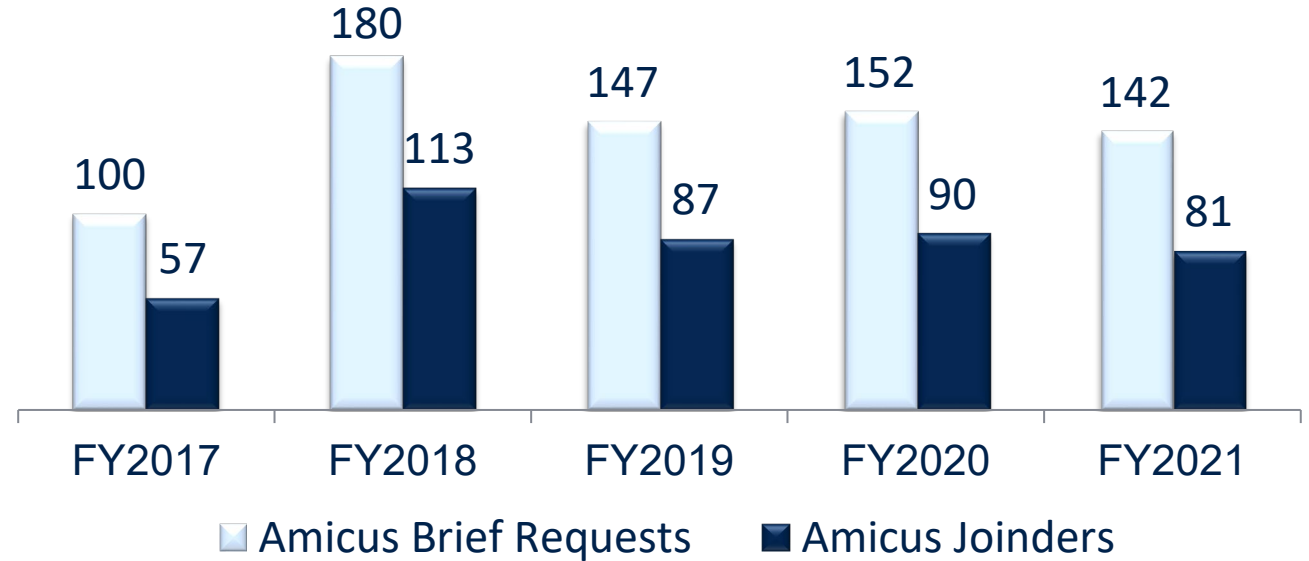
Someone challenges constitutionality of a statute

FY2017 FY2018 FY2019 FY2020 FY2021

Example of "other" is bringing suit against a municipality to enforce a state law

# Amicus Briefs

- Filed in a case where the State is not a party, but the State still provides legal arguments or other relevant information in support of a position to assist the court in deciding the case.
  - Occurs in state and federal court, but mainly occurs in federal court with the AG joining other states
- There is no specific test or written policy on what is considered when deciding whether to file an amicus brief, but the issues are reviewed by several attorneys in the AG's Office in advance.



All amicus briefs & sign-ons come through SGD and decisions are made in consultation with other Divisions including, e.g., CPAT or Criminal.

## Agency Service #93: Amicus Briefs

Does law require it: No  
 Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; see also Cooley, et al. v. South Carolina Tax Commission, 204 S.C. 10, 28 S.E.2d 445, 450 (1943) (role of the SCAG as the State's chief legal officer).

Purpose:  
 As the State's chief legal officer the Attorney General provides amicus briefs to State and Federal Courts in furtherance of the State's legal policy.

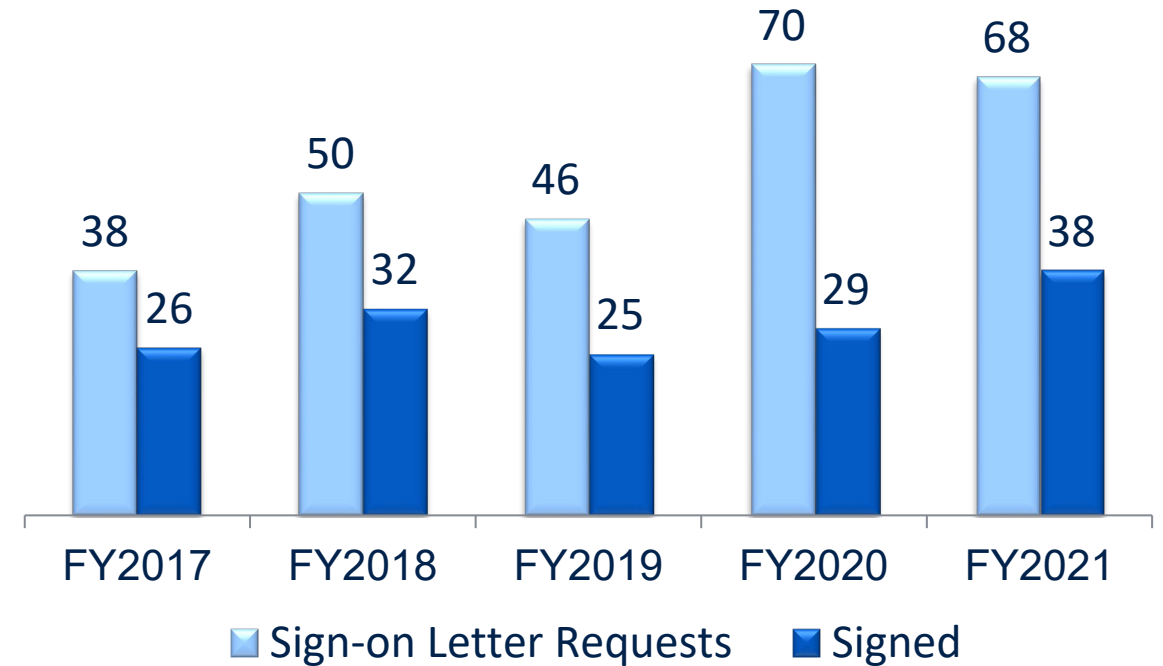
Single Unit:  
 Amicus brief, including third-party and joint briefs authored by SCAG

	Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
2016-17	57.00	\$407.25	0.15	\$23,213.53	0.12%
2017-18	113.00	\$211.23	0.15	\$23,869.16	0.04%
2018-19	87.00	\$288.58	0.15	\$25,106.20	0.04%
2019-20	90.00	\$279.88	0.15	\$25,188.95	0.03%



# Sign-on Letters

- Letter stating a position
  - Example – Letter to a federal regulator considering adopting a rule
  - Example – Letter to Congress in the legislative process
- It is a form of legal advocacy outside of litigation
- There is no specific test or written policy on what is considered when deciding whether to file a sign on letter, but the issues are reviewed by several attorneys in the AG’s Office in advance



## Agency Service #94: Sign-On Letters

Does law require it: No

Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; see also Cooley, et al. v. South Carolina Tax Commission, 204 S.C. 10, 28 S.E.2d 445, 450 (1943) (role of the SCAG as the State's chief legal officer).

Purpose:

As the State's chief legal officer, the Attorney General ensures that the State's interests are diligently represented by signing on to position letters authored by other states where appropriate.

		<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	2016-17	26.00	\$156.28	0.04	\$4,063.21	0.02%
Unit:	2017-18	32.00	\$130.54	0.04	\$4,177.22	0.01%
Sign-on letter	2018-19	25.00	\$175.63	0.04	\$4,390.65	0.01%
	2019-20	29.00	\$222.65	0.04	\$6,456.71	0.01%

# Intersection of Litigation and Financials

## Annual Litigation Report

- Attorney General prepares and presents one large annual report re: litigation to the Comptroller General with a potential gain / loss of \$3 million
- It provides the Comptroller General with some information re: potential gains or losses as a result of litigation

## Response to Routine Auditor's Examinations of State Agency Financial Statements

- Entities for which the Attorney General provides defense (e.g., technical schools, state agencies, etc.) must account for liability in financial audits
- When those entities are audited, the AG responds to requests concerning the existence of any litigation undertaken by our Office on behalf of the entity and possible potential losses
- Deliverable requires an average of less than one full day per work year

### Agency Service #95: Annual Litigation Report

Does law require it: No

S.C. Const. Art IV § 24, Art. V § 28; see also Cooley, et al. v. South Carolina Tax Commission, 204 S.C. 10, 28 S.E.2d 445, 450 (1943) (role of the SCAG as the State's chief legal officer).

Customer:  
Comptroller  
General

Single Unit:  
Annual Litigation  
Report

	<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	1.00	\$1,885.89	0.01	\$1,885.89	0.01%
2017-18	1.00	\$1,939.34	0.01	\$1,939.34	0.00%
2018-19	1.00	\$2,040.61	0.01	\$2,040.61	0.00%
2019-20	1.00	\$1,029.11	0.01	\$1,029.11	0.00%

### Agency Service #97: Response to Routine Auditor's Examinations of State

#### Agency Financial Statements

Does law require it: No

Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; see also Cooley, et al. v. South Carolina Tax Commission, 204 S.C. 10, 28 S.E.2d 445, 450 (1943) (role of the SCAG as the State's chief legal officer).

Customer:  
State agencies and  
institutions

Single Unit:  
Letter responding  
to auditor request

	<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	Not provided	Insufficient data	0.00	\$942.94	0.00%
2017-18	Not provided	Insufficient data	0.00	\$969.67	0.00%
2018-19	Not provided	Insufficient data	0.00	\$1,020.31	0.00%
2019-20	Not provided	Insufficient data	0.00	\$413.28	0.00%

# Miscellaneous Issues

## Miscellaneous Tidelands and Other Issues

- Attorney General is required to notify DHEC upon receipt of any private lawsuit made under Section 48-39-220. Although this issue may be dormant periodically, the State has an ongoing interest in the protection of tidelands.
- This has been an area of legal development. Historically the State was the presumptive owner of certain tideland areas.

## Education Department Textbook Bond and Contract Reviews

- Attorney General reviews textbook bonds and contracts as to form and execution.
- Attorney General suggests this function be removed from the duties of the Office.
  - Statute was written over a century ago when the AG office essentially was the only source of legal work for the State. It is an anachronistic formality in the modern era where the Department of Education employs attorneys of their own.

Agency Service #98: Miscellaneous Tidelands and Other Issues				<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: No Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; Section 48-39-220	Customer: South Carolina Department of Health and Environmental Control.	Single Unit: Notice to DHEC and involvement as appropriate	2016-17	Not provided	Insufficient data	0.17	\$28,288.34	0.14%
			2017-18	Not provided	Insufficient data	0.17	\$29,090.09	0.05%
			2018-19	Not provided	Insufficient data	0.17	\$30,609.17	0.05%
			2019-20	Not provided	Insufficient data	0.17	\$30,709.32	0.04%

Agency Service #96: Education Dep't Textbook Bond and Contract Reviews				<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: S.C. Const. Art IV § 24, Art. V § 28; Section 59-31-560	Customer: SC Department of Education	Single Unit: Review of textbook bond or contract	2016-17	Not provided	Insufficient data	0.01	\$942.94	0.00%
			2017-18	Not provided	Insufficient data	0.01	\$969.67	0.00%
			2018-19	Not provided	Insufficient data	0.01	\$1,020.31	0.00%
			2019-20	Not provided	Insufficient data	0.01	\$1,029.11	0.00%

# LAW CHANGE RECOMMENDATION #9

- Statute: 59-31-560
- Current Law: “The Attorney General of the State shall approve all contracts to be entered into between the State and publishers and shall approve the bond to be filed by each contract publisher. Such bond shall be placed in the custody of the State Treasurer.”
- Recommendation: Remove requirement for Attorney General approval.
- Basis for Recommendation: This statute was written over a century ago when the AG office was the only source of legal work for the state. It is an anachronistic formality in the modern era where the Dep’t of Ed. employs attorneys.
- Feedback from Other Agencies Impacted: The Office of the Attorney General is informed and believes the Dep't of Ed. is open to this change.

# LAW CHANGE RECOMMENDATION #9

## CURRENT WORDING

Section 59-31-560. Approval of contracts and publishers' bonds by Attorney General.

The Attorney General of the State shall approve all contracts to be entered into between the State and publishers and shall approve the bond to be filed by each contract publisher. Such bond shall be placed in the custody of the State Treasurer.

HISTORY: 1962 Code Section 21-506; 1952 Code Section 21-506; 1942 Code Section 5282; 1932 Code Section 5289; Civ. C. '22 Section 2549; Civ. C. '12 Section 1708; Civ. C. '02 Section 1184; 1896 (22) 150; 1914 (28) 450; 1915 (29) 188; 1923 (33) 147; 1927 (35) 354; 1928 (35) 1215; 1931 (37) 391; 1940 (41) 1763, 1886; 1947 (45) 55.

## PROPOSED WORDING

The State Board of Education or its designee shall place in the custody of the State Treasurer any bond that is entered by the State and the publisher pursuant to S.C. Code Ann. §59-31-550(5).

# AGENCY PRESENTATION – TOBACCO DIVISION

The background features a faint, circular seal of the State of South Carolina. The seal contains a central figure, likely a personification of Liberty or Justice, surrounded by a wreath. The outer ring of the seal contains the text "OFFICE OF THE ATTORNEY GENERAL" at the top and "STATE OF SOUTH CAROLINA" at the bottom, with two stars on either side.

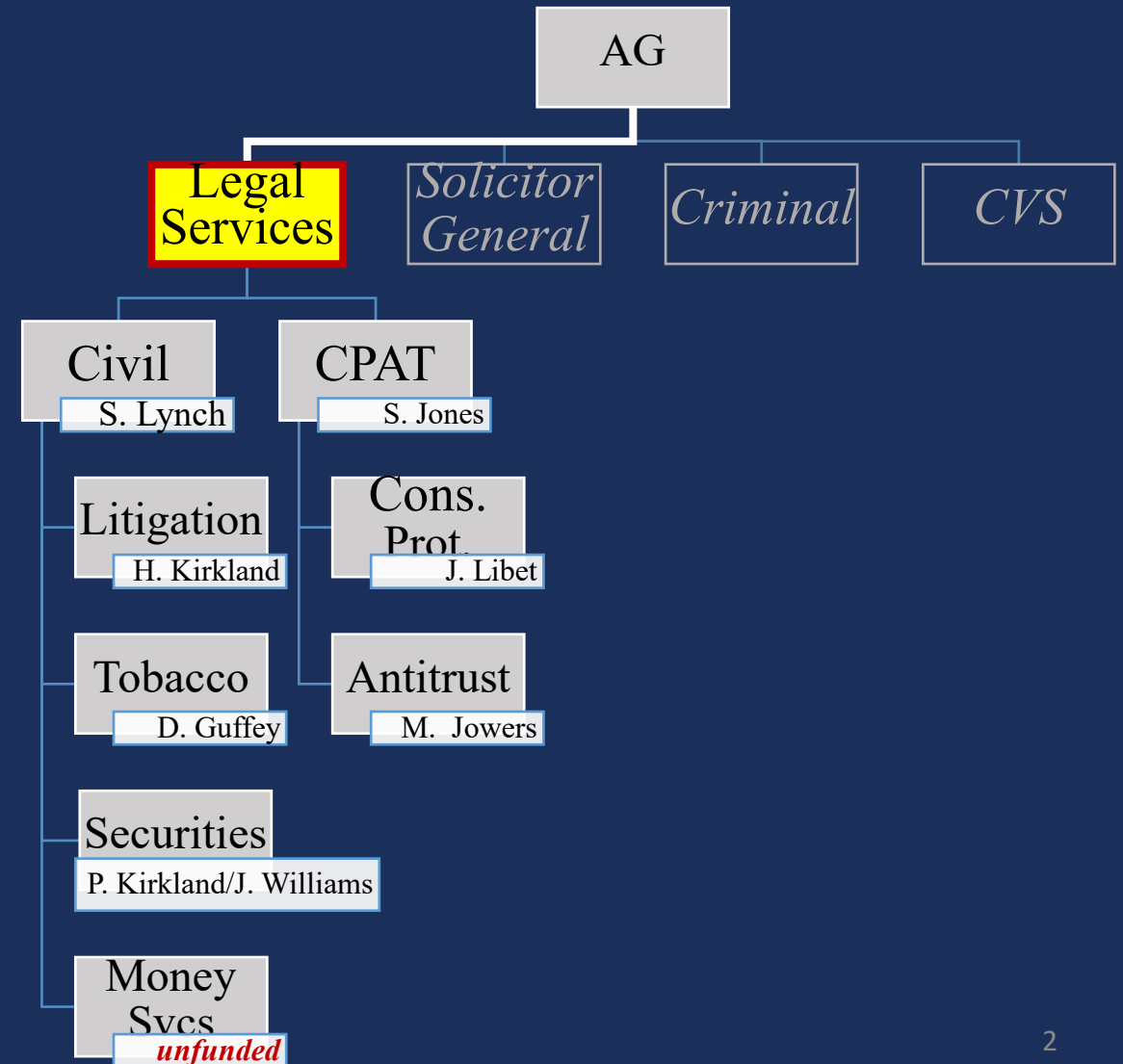
LEGAL  
SERVICES  
DIVISION



# LEGAL SERVICES

Legal Services is commonly referred to as the Civil Division.

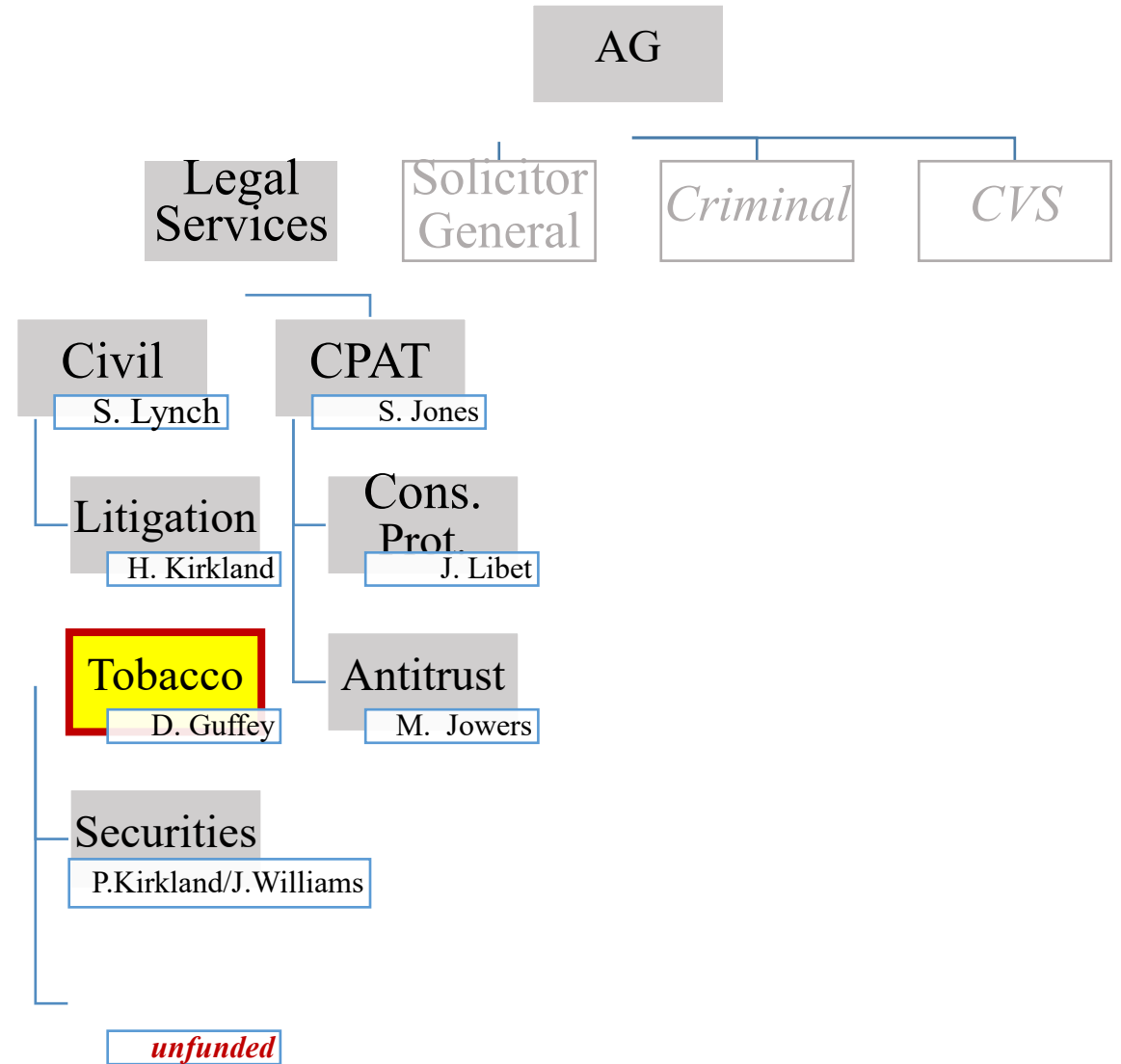
There are very distinct functions for Litigation, Tobacco, Securities, Money Services, and CPAT sections.







# Tobacco Section



# Personnel

	Turnover	Number of Employees	
		Leave unit during year	In unit at end of year
2016-17	0%	0	3
2017-18	0%	0	3
2018-19	67%	2	3
2019-20	0%	0	3

Note: During FY 2019, 50% of turnover was due to employment with another state agency, and 50% was due to an internal promotional opportunity. Due to the section's small staff size, the loss of two employees in FY 2019 resulted in a significant turnover rate.

## *Exit interviews or surveys conducted?*

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

## *Employee satisfaction tracked?*

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

# Overview

In 1998, the Attorney General's Office (AGO) joined 45 other States, the District of Columbia, and five U.S. territories in settling claims with the then four major U.S. cigarette manufacturers.

*\*Master Settlement Agreement (MSA) is the largest financial recovery in legal history\**

## Settlement

- Imposes major restrictions on the industry's advertising and marketing, and
- Provides States with annual payments in perpetuity to help reimburse the states for healthcare costs and harm caused by tobacco use
  - **Average MSA payment: \$75M**

## AGO

- Enforces the tobacco statutes that were enacted pursuant to the MSA
  - Works with the Department of Revenue and SLED along with the Attorneys General across the country

# Tobacco Litigation: Parties and Timeline

## Non-Participating Manufacturers (NPMs)

did not join the MSA but, to sell cigarettes in S.C., are subject to compliance with tobacco enforcement statutes

NOTE:

TPM = NPM + OPM + SPM

## Participating Manufacturers (PMs)

PM = OPM + SPM

**Original Participating Manufacturers (OPMs)** sign MSA

**Subsequent Participating Manufacturers (SPMs)** join MSA after the OPMs; Some join immediately after the settlement; option still available to join



**Four largest cigarette manufacturers<sup>1</sup> settle with 52 states/territories<sup>2</sup>**

- <sup>1</sup> Phillip Morris, RJ Reynolds (RJR), B&W, and Lorillard (RJR later buys B&W (2003) and Lorillard (2015))
- <sup>2</sup> MS, MN, TX, and FL did not join

**Master Settlement Agreement (MSA) entered**

- States agreed to enact certain legislation, which requires NPMs to place funds into an escrow account for sales each year
- PMs payment to states adjusted down if state has not “**diligently enforced** the provisions of [the escrow statute]”

States settle payment disputes PMs raised in each year 1999-2002  
(PMs annually claim States did not “diligently enforce”)

PMs dispute 2003 MSA payment, claiming States failed to “diligently enforce”

(no money lost while working to resolve, but a portion may have been delayed)

Arbitrators impaneled to hear 2003 payment dispute

S.C. Diligent Enforcement Arbitration Hearing  
(S.C. could lose up to \$80M for 2003 alone)

S.C. and 25 other states discuss language to settle 2003 payment dispute clarifying “diligently enforce”

Final Settlement Agreement entered  
(includes 2003 dispute and disputes PMs raised in years 2004-2017)

Add’l Settlements entered 2018 -2022  
(PMs continue to annually claim States did not “diligently enforce”)



# Legislation

- MSA required a “Qualifying Statute”
  - S.C. Code Section 11-47-10, *et seq.* (eff. June 1999)
- Then, a “Complementary Statute”
  - S.C. Code Section 11-48-10, *et seq.* (eff. May 2005)
- Regulations were added to enhance enforcement efforts
  - S.C. Code of Regs Section 13-1101 thru 1111 (eff. June 2014)
- Tobacco Settlement Revenue Management Authority
  - S.C. Code Section 11-49-10, *et seq.*



# Associated Services

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

## Purpose of the Services:

Cigarette smoking presents serious financial concerns for the State. It is the policy of the State that financial burdens imposed on the State by cigarette smoking be borne by tobacco product manufacturers rather than by the State. The Master Settlement Agreement obligates these manufacturers to pay substantial sums to the State (tied in part to their volume of sales). 1999 Act No. 47: Section 11-47-10; Section 11-48-10; Section 11-48-110; 1999 Act No. 47, Section 1; 2005 Act No. 61, Section 1.A.

# Monitor and review MSA payment issues

- Monitor and review MSA payment issues with Price Waterhouse Cooper (the Independent Auditor); the NAAG Center for Tobacco and Public Health; Office of the SC Treasurer; and the Office of SC Revenue and Fiscal Affairs

Master Settlement Agreement Payments to the State (millions)



- MSA payments may trend downward due to a reduction in cigarette sales across the country. The good news is that national cigarette sales are down 40% since the inception of the MSA (1998), which means fewer people around the country are smoking.
  - NOTE: This does not mean the number of people smoking in S.C. is down and the AG does not track that information.
- Since the MSA payment is based on national cigarette sales and PM/NPM activity and is subject to a number of adjustments, including volume, profit, inflation, and NPM adjustment, payments may fluctuate.
  - NOTE: The number of cigarettes sold in S.C. every year after the year the MSA was entered, has no impact on the payment S.C. receives.

## Agency Service #20: Monitor and review MSA payment issues

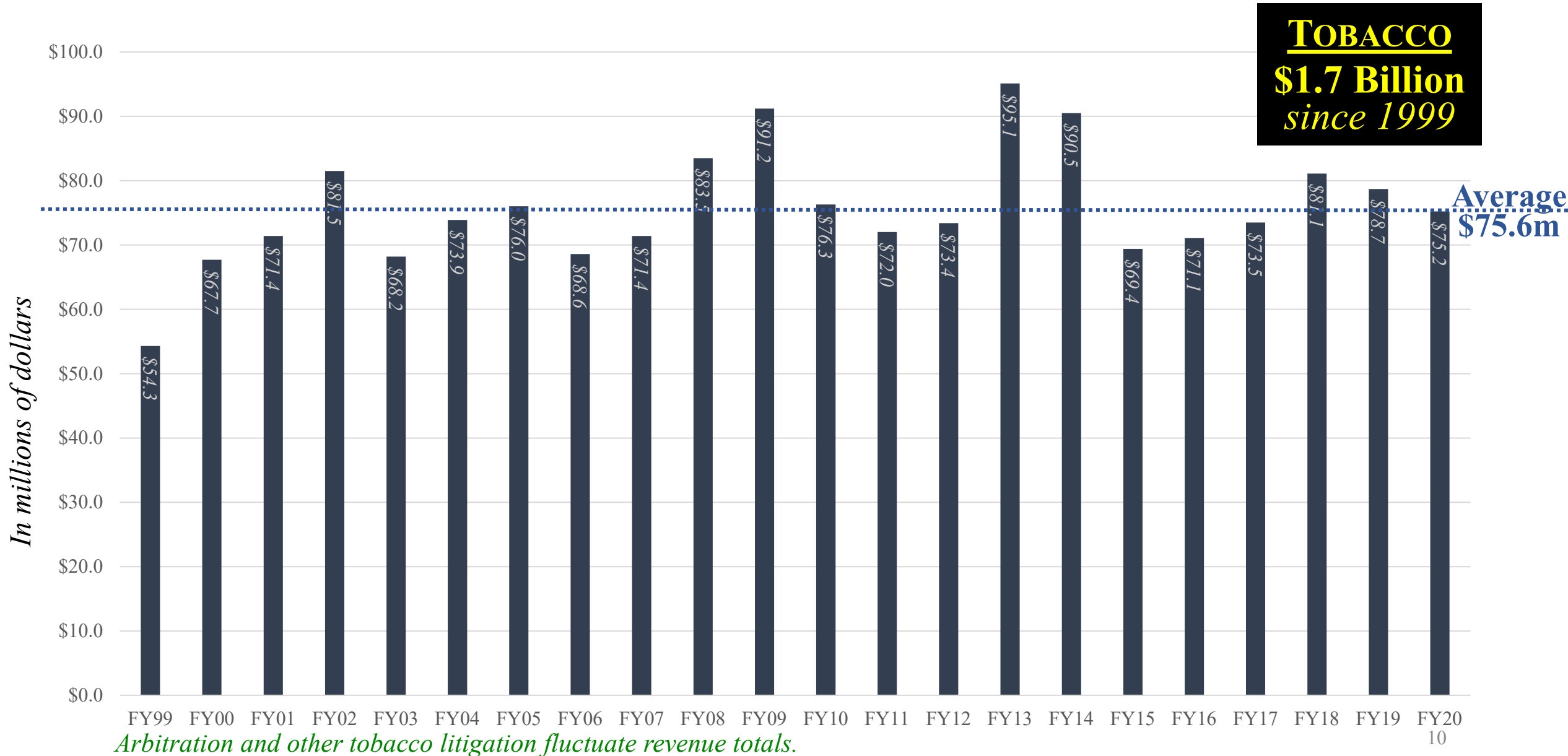
Does law require it: Yes  
 Assoc. Laws: Section 11-47-10;  
 Section 11-48-10; Section 11-48-110

Customers:  
 State of South  
 Carolina

Single Unit:  
 MSA Payment to 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>
2016-17	1.00	\$34,414.59	0.18	\$34,414.59	0.18%
2017-18	1.00	\$30,178.80	0.18	\$30,178.80	0.05%
2018-19	1.00	\$37,950.85	0.18	\$37,950.85	0.06%
2019-20	1.00	\$23,835.27	0.18	\$23,835.27	0.03%

# Revenue from Tobacco





## Monitor and enforce compliance/use of Qualified Escrow Fund Accounts

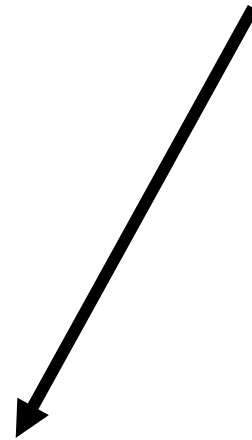
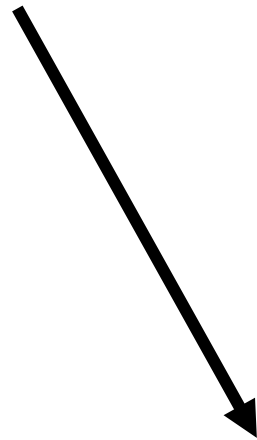
(Agency Service #21)

- Ensure all NPMs have created a qualified escrow fund account
- Review accounts for maintenance of required principal and effects of investments on principal
  - Monitoring after deposits are made by NPMs

## Create, review, and regulate required tobacco product manufacturer certification applications

(Agency Service #22)

- Create, review, approve, deny, or otherwise regulate required certification applications to the Attorney General by Tobacco Product Manufacturers, Participating and Non-Participating, who want to sell cigarettes in SC
  - Note: Does not include e-cigarettes, dip, etc.



## Develop and maintain a directory of approved Tobacco Product Manufacturers

(Agency Service #23)

Develop and maintain a directory of approved Tobacco Product Manufacturers; published on the Attorney General's website on the 1st and 15th of each month

## Agency Service #21: Monitor and enforce compliance/use of Qualified Escrow Fund Accounts

Does law require it: Yes  
Assoc. Laws: Section 11-47-30

Customers:  
Non-participating  
Manufacturers (NPMs)

Single Unit:  
Bank Statements 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>
2016-17	127.00	\$291.25	0.21	\$36,989.26	0.19%
2017-18	127.00	\$254.47	0.21	\$32,318.14	0.05%
2018-19	127.00	\$272.98	0.21	\$34,668.71	0.05%
2019-20	127.00	\$213.07	0.21	\$27,060.01	0.04%

## Agency Service #22: Create, review, and regulate required tobacco product manufacturer certification applications

Does law require it: Yes  
Assoc. Laws: 11-48-30; Reg. 13-1106;  
Reg. 13-1108; Reg. 13-1109

Customers:  
Tobacco Product  
Manufacturers (TPMs)

Single Unit:  
Certification Application submitted; Letter of  
Approval or Denial

	<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	32.00	\$1,195.01	0.31	\$38,240.28	0.19%
2017-18	30.00	\$1,255.37	0.31	\$37,661.21	0.06%
2018-19	28.00	\$1,809.57	0.30	\$50,668.07	0.08%
2019-20	25.00	\$1,071.88	0.30	\$26,797.03	0.03%

## Agency Service #23: Develop and maintain a directory of approved Tobacco Product Manufacturers

Does law require it: Yes  
Assoc. Laws: Section 11-48-30; Reg. 13-1107

Customers:  
Retailers, Distributors, Tobacco  
Product Manufacturers, SC Citizens

Single Unit:  
South Carolina Tobacco  
Directory

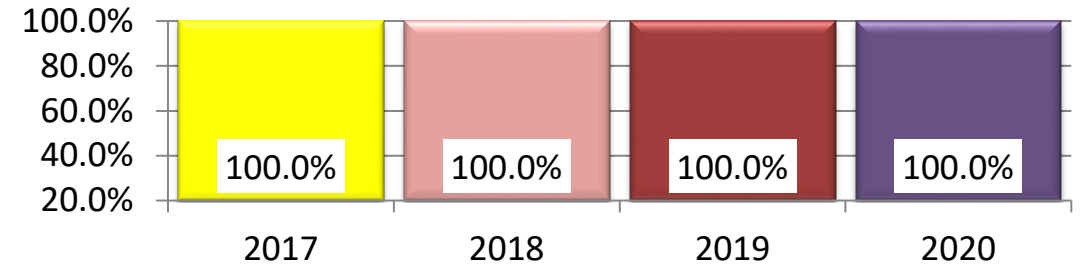
	<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
2016-17	24.00	\$1,152.28	0.18	\$27,654.68	0.14%
2017-18	24.00	\$1,019.66	0.18	\$24,471.90	0.04%
2018-19	24.00	\$236.17	0.18	\$5,668.07	0.01%
2019-20	24.00	\$849.93	0.18	\$20,398.23	0.03%

# Monitor and enforce quarterly non-participating manufacturers escrow deposits

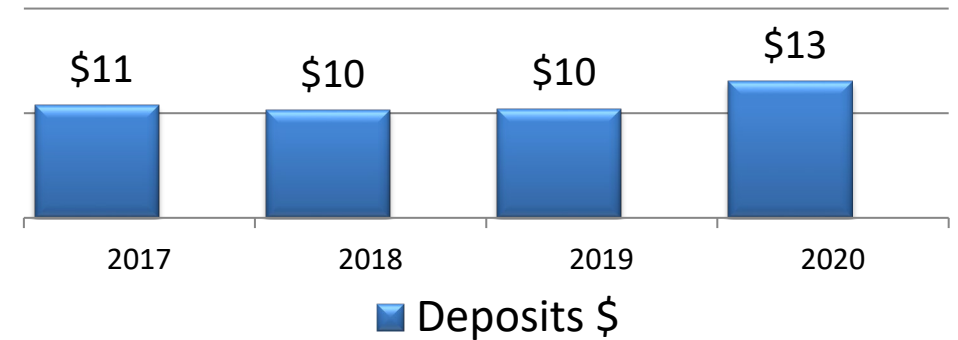
(Agency Service #25)

- Monitor and enforce, with at least a 96% compliance rate, quarterly NPM escrow deposits based on state excise tax (SET) paid sales data as reported to the Department of Revenue (DOR)
  - If state fails to ensure at least 96% compliance, the PMs can request an adjustment to the payment
- Review quarterly NPM Report showing sales for each NPM that is compiled by DOR and make demand for escrow deposits along with NPM Quarterly Reports, including proofs of deposit. This includes escrow deposit demands of DOR audit results of individual distributors
- Receives distributors' reports and data compiled by DOR

Compliance Percentages



Escrow Deposits/Defaults (millions \$)



Does law require it:	Customers:		Number of Customers Served	Customer satisfaction evaluated	Single Unit: NPM Quarterly Reports submitted	Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
Yes	Non-participating Manufacturers; State of South Carolina	2016-17	13		2016-17	54.00	\$663.10	0.21	\$35,807.62	0.18%
		2017-18	13		2017-18	54.00	\$575.58	0.21	\$31,081.53	0.05%
		2018-19	10	No	2018-19	39.00	\$482.89	0.21	\$18,832.65	0.03%
		2019-20	10	No	2019-20	37.00	\$876.72	0.21	\$32,438.81	0.04%

# Monitor and enforce compliance with...

## S.C. Tobacco Directory Approved Sales

(Agency Service #26 and #27)

### *Department of Revenue (DOR) Reports*

- Audits all distributors that sell cigarettes
- Inspects retailers
  - Process in place ensures DOR and SLED are not visiting same retailers close in time
- Example - In 2021, DOR conducted 39 complete audits of distributors, inspected 1,581 retail locations, seized 8,117 packs of contraband cigarettes, and assessed **\$2,295,674.16 in unpaid taxes**

### *State Law Enforcement Division (SLED) Reports*

- Visits all retail locations to confirm everything being sold is on the directory
- Example - In 2021, SLED performed 3,086 inspections of retail locations and seized 2,796 contraband packs in 131 seizures

## Prevent All Cigarette Trafficking Act Reports

(Agency Service #24)

- Distributors shipping cigarettes into S.C. submit to the Attorney General and DOR

## Agency Service #26: Monitor and enforce compliance with S.C. Tobacco Directory approved sales as reported by SLED

			<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	6,412.00	\$3.37	0.15	\$21,582.96	0.11%
Does law require it: Yes Assoc. Laws: 11-48-60; Section 11-48-90	Customers: Retailers; State of South Carolina	Single Unit: Cigarette Inspection Forms and Cigarette Seizure Forms submitted	2017-18	6,501.00	\$3.88	0.15	\$25,230.27	0.04%
			2018-19	5,565.00	\$37.66	0.15	\$20,953.60	0.03%
			2019-20	2,604.00	\$4.86	0.15	\$12,646.99	0.02%

## Agency Service #27: Monitor and enforce compliance with S.C. Tobacco Directory approved sales as reported by DOR

			<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	754.00	\$28.62	0.15	\$21,582.96	0.11%
Does law require it: Yes Assoc. Laws: 11-48-60; Section 11-48-90	Customers: Retailers; State of South Carolina	Single Unit: FS-31 DOR Regulatory Violation and Proposed Assessment Reports submitted	2017-18	534.00	\$47.25	0.15	\$25,230.27	0.04%
			2018-19	845.00	\$24.80	0.15	\$20,953.60	0.03%
			2019-20	1,069.00	\$11.83	0.15	\$12,646.99	0.02%

## Agency Service #24: Monitor and enforce compliance with Prevent All Cigarette Trafficking Act Reports

			<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	1,308.00	\$26.05	0.24	\$34,079.62	0.17%
Does law require it: Yes Assoc. Laws: Section 11-48-50; 15 U.S.C. 376; 15 U.S.C. 376(a)	Customers: Tobacco Product Manufacturers; Distributors	Single Unit: PACT Reports submitted	2017-18	1,157.00	\$28.61	0.24	\$33,105.90	0.06%
			2018-19	859.00	\$38.18	0.24	\$32,794.06	0.05%
			2019-20	927.00	\$32.66	0.24	\$30,272.09	0.04%

# File, defend, and, if appropriate, settle lawsuits

(Agency Service #29)

- File, defend, and, if appropriate, settle lawsuits
- Potential lawsuits include:
  - Certification denials
  - Removals from the SC Tobacco Directory
  - Default on escrow deposits
  - Contraband sales
  - Potential Excess Escrow Release
- Participate in multi-state settlements and bankruptcy proceedings
- Work with counsel to resolve matters without litigation when appropriate

Does law require it: Yes  
 Assoc. Laws: Section 11-47-30;  
 Section 11-48-60; Section 11-48-70

Customers:  
 State of South Carolina

Single Unit:  
 Cases concerning default on  
 escrow deposit and removal  
 from the SC Tobacco Directory

		<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		1.00	\$21,582.96	0.15	\$21,582.96	0.11%
2017-18		0.00	Insufficient data	0.15	\$25,230.27	0.04%
2018-19		1.00	\$20,953.60	0.15	\$20,953.60	0.03%
2019-20		0.00	Insufficient data	0.15	\$12,646.89	0.02%

# Participate in National Association of Attorneys General (NAAG) Center for Tobacco and Public Health working groups and projects

(Agency Service #28)

Work collaboratively with other States to resolve issues with TPMs, importers, escrow agents, distributors, and other entities involved in the manufacture and distribution of cigarettes around the country

Participate in NAAG sponsored training in areas pertinent to Tobacco enforcement (e.g., bankruptcy, banking practices, and litigation skills)

Work directly with NAAG staff on SC specific issues and provide litigation assistance

SC Tobacco attorneys maintain leadership roles in national litigation, enforcement efforts, and instruction

Does law require it: No Assoc. Laws: 11-48-10 Customers: State of South Carolina	Purpose: To ensure adherence to the terms of the Master Settlement Agreement including the diligent enforcement of SC's qualified statutes; and to work collaboratively with other States to resolve issues with tobacco product manufacturers, importers, escrow agents, distributors and other entities involved in the manufacture and distribution of cigarettes.	Single Unit: Workii Group Calls	<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	120.00	\$179.86	0.15	\$21,582.96	0.11%
		2017-18	120.00	\$210.25	0.15	\$25,230.27	0.04%
		2018-19	120.00	\$174.61	0.15	\$20,953.60	0.03%
		2019-20	181.00	\$69.87	0.15	\$12,646.99	0.02%



# Current/Future Issue

- Electronic Cigarettes (E-Cigs), Vaping Products, Electronic Nicotine Delivery System (ENDS)
- **These products are not covered under the MSA**
- Many states are moving to tax and monitor these products like cigarettes in addition to enforcing age limitation on use
  - Georgia, Maryland, North Carolina, Virginia, West Virginia, Kentucky (CDC Report 2021)
- Currently, S.C. does not tax these products like cigarettes
- At this time, the only S.C. legislation that addresses these products is our statute prohibiting underage smoking



## 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](mailto:HCommLegOv@schouse.gov)

Location: Blatt Building, Room 228

## UPCOMING MEETINGS

### Law Enforcement and Criminal Justice Subcommittee

*\*All meetings below begin at  
10:00am in Blatt Room 110*

Wednesday, June 1, 2022

Wednesday, June 8, 2022

Tuesday, June 14, 2022

Wednesday, June 22, 2022

Wednesday, June 29, 2022

## END NOTES

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<sup>1</sup> 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).