



# *STATE GRAND JURY*

## *PROSECUTION DIVISION*

*STATE GRAND JURY*

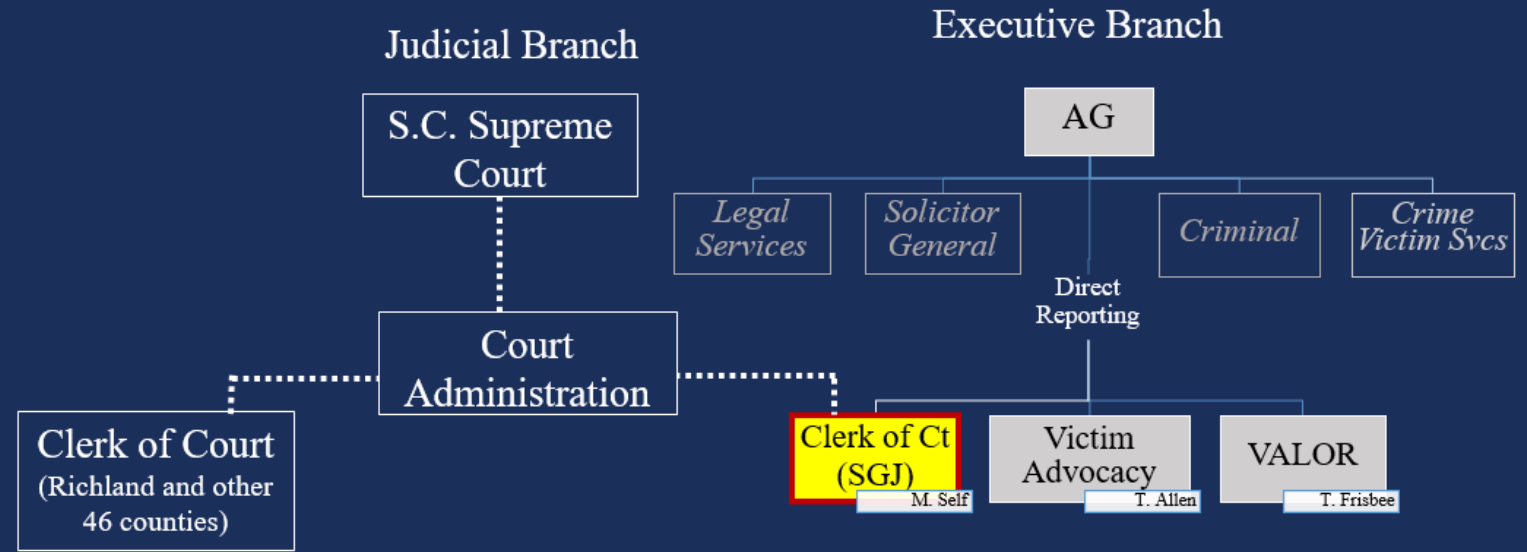
*SECTION*

## *DIRECT REPORTS*

*STATE GRAND JURY*

*CLERK OF COURT*

# STATE GRAND JURY CLERK OF COURT



Certain sections of the office report directly to the Attorney General and not through a division. It is with special emphasis of the AG, or to provide independence to those sections for mission security.

**SGJ Clerk of Court is specifically independent of the prosecution section.**

While the Clerk's budget and support comes from the AG, the Clerk is responsive to the judge assigned. Extreme coordination is required for each action with the judge, SGJ, and the AG's office.

# SGJ Clerk of Court Personnel

	Turnover	Number of Employees	
		Leave unit during year	In unit at end of year
2016-17	0%	0	3
2017-18	80%	2	2
2018-19	0%	0	3
2019-20	0%	0	3

Note: During FY 2018, the same position turned over twice, once for a position in the private sector, and once for a higher paying position with the county. The section has maintained the same staff since then. Due to the section's small staff size, the loss of two employees resulted in a significant turnover rate.

*Exit interviews or surveys conducted?*

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

*Employee satisfaction tracked?*

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

# Clerk of Courts: **State Grand Jury v. County**

## **State Grand Jury Clerk of Court**

### **Personnel**

- Selection: Selected by Attorney General and S.C. Supreme Court Chief Justice

### **Crimes**

- Jurisdiction: Statewide

### **Indictments**

- Indictments: Single or multiple defendant
- Judge: Same assigned throughout the investigation

### **Trial**

- Venue: Any county
- Judge: Assigned and will be the same, regardless of the term of court

## **County Clerk's of Court**

### **Personnel**

- Selection: Elected by voters in the county

### **Crimes**

- Jurisdiction: Only matters in the county

### **Indictments**

- Indictments: Single defendant
- Judge: May vary depending on week/month in which indictment requested

### **Trial**

- Venue: Only one county
- Judge: May vary depending on week/month in which trial begins

# SGJ Period July-June

## SGJ: Judge Selection

- S.C. Supreme Court, through administrative order, has assigned the Fifth Judicial Circuit General Sessions Administrative Judge for this role.
- S.C. statute states there will be a judge and the S.C. Supreme Court can make determination through orders and policies

## SGJ: Juror Selection

- 18 Jurors and 4 alternates selected
- See "State Grand Jury – Jury Selection Process" document for additional details

*NOTE: Who determines what?*

- *State Grand Jury Jurors:*
  - Whether case/charges should be brought
- *Trial Jury Jurors:*
  - Whether an individual is guilty of a crime

# State Grand Jury: Jury Selection

The process below occurs annually with jury selection day in June of each year. Each juror serves a one-year period, which may be extended in six month increments for up to one additional year. The process from step one to step four typically takes six months to complete.

## Step 1:

### Jury List from Counties (700 selected across the state)

- SGJ Clerk requests random selection of jurors based on population from the clerks of court in all 46 counties
- County clerks randomly select jurors from their county using Court Administration's jury management system, then send the list to the SGJ clerk
- Jury wheel, a software within Court Administration's jury management system, compiles the county lists and randomly pulls 700 jurors for the SGJ clerk to qualify

## Step 2:

### Jury Qualification (700 narrowed to 60)

- SGJ Clerk mails jury qualification forms to the 700 randomly selected jurors
- SGJ Clerk receives completed copies mailed from jurors
- SGJ Clerk indicates whether each juror is qualified or excused based on information the juror provides on the forms
  - Excused if they meet the qualifications for excusal (e.g., over 65, cannot read or write English language, medical reason)
  - SGJ Clerk selects applicable drop down for each juror in the court administration system (e.g., qualified, excused because over 65, etc.)
- SGJ Clerk mails letter to jurors excused to inform them they are excused
- Jury Wheel software randomly selects 60 jurors from the jurors the SGJ clerk indicated were qualified

# State Grand Jury: Jury Selection

## Step 3:

### Summons of Appearance

- SGJ Clerk creates summons for the 60 randomly selected jurors to appear
- SGJ Clerk mails summons to the sheriff's office in the counties in which the 60 jurors reside
- Sheriff's Office personnel personally serves the jurors in their county

## Step 4:

### Jury Selection Day (June)

- SGJ Clerk schedules Jury Selection Day

### During Jury Selection Day

- SGJ Judge qualifies the juror panel by asking them the same questions from the qualification form to ensure the answers are still the same
  - SGJ Clerk selects applicable drop down for each juror in the court administration system (e.g., qualified, excused because over 65, etc.)
- Once there is a panel of only qualified jurors, the Jury Wheel software randomly selects 18 regular and 4 alternate jurors
- SGJ Judge has the regular and alternate jurors swear by the state grand jury secrecy oath
- SGJ Jurors are given instructions about monthly meetings, etc.

# Confidentiality Required in Statute

Section 14-7-1720. Proceedings to be secret; juror not to disclose; persons entitled to attend grand jury session; persons attending not to disclose; exceptions; penalties.

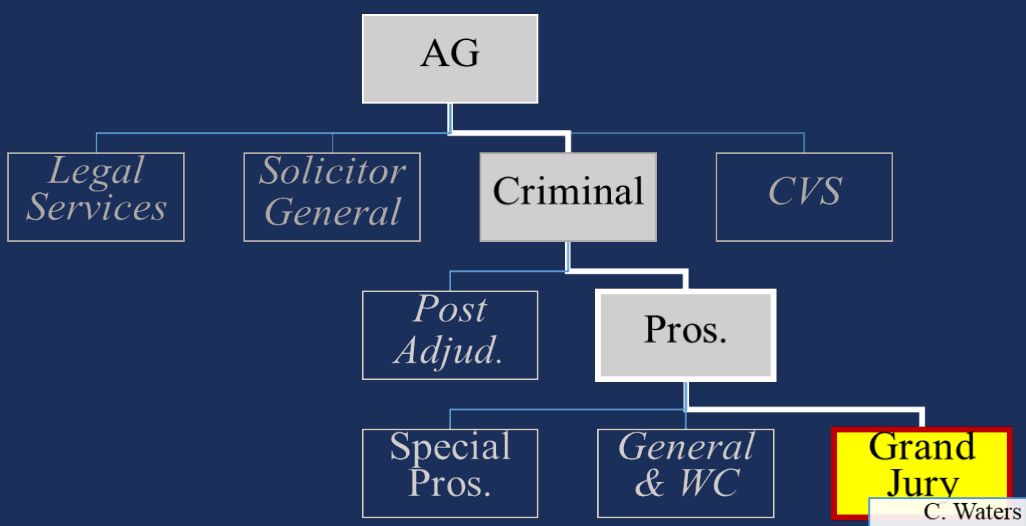
(A) **State grand jury proceedings are secret, and a state grand juror shall not disclose the nature or substance of the deliberations or vote of the state grand jury.** The only persons who may be present in the state grand jury room when a state grand jury is in session, except for deliberations and voting, are the state grand jurors, the Attorney General or his designee, the court reporter, an interpreter if necessary, and the witness testifying. A state grand juror, the Attorney General or his designee, any interpreter used, the court reporter, and any person to whom disclosure is made pursuant to subsection (B)(2) of this section may not disclose the testimony of a witness examined before a state grand jury or other evidence received by it except when directed by a court for the purpose of:

- (1) ascertaining whether it is consistent with the testimony given by the witness before the court in any subsequent criminal proceeding;
- (2) determining whether the witness is guilty of perjury;
- (3) assisting local, state, other state or federal law enforcement or investigating agencies, including another grand jury, in investigating crimes under their investigative jurisdiction;
- (4) providing the defendant the materials to which he is entitled pursuant to Section 14-7-1700;
- (5) complying with constitutional, statutory, or other legal requirements or to further justice.

...

(D) **Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine not exceeding five thousand dollars or by a term of imprisonment not exceeding one year, or both.**





# SGJ Section Personnel

4 Attorneys; 1 For. Acc't., 2 Paralegals, 1 Enf. Specialist  
 Jan. '20 – 1 Attorney added.

*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

	Turnover	Number of Employees	
		Leave unit during year	In unit at end of year
2016-17	0%	0	8
2017-18	40%	3	7
2018-19	13%	1	8
2019-20	22%	2	9

Note: FY 2018 Turnover

- 33.3% - Employment outside of state government
- 33.3% - Employment with another state agency
- 33.4% - Internal promotion opportunity

# State Grand Jury Terms of Art

## White Collar Crime

- Financial and/or public corruption crime
- Any criminal enterprise whose goal is to make money (e.g., drug trafficking, human trafficking, gangs)
- Individuals at higher levels of trafficking and gangs often have one or more legitimate businesses through which they seek to facilitate the crimes (e.g., money laundering, etc.)

# State Grand Jury Types of Cases

State Grand Jury (SGJ) Prosecution Section prosecutes 14 different types of cases

## Majority of Investigations

- Public corruption
- Multicounty drug trafficking organizations
- Criminal gangs
- Money laundering
- Human trafficking
  - SGJ cases are typically found as part of drug trafficking and gang investigation. Most human trafficking cases go through AG's Special Prosecution Division.
- Securities fraud
  - AG's Securities Division handles civil regulatory matters. If the securities issue is possibly criminal, Securities Division will refer it to Prosecution. SGJ will handle the more complex securities matters (e.g., SCANA scandal, HomeGold; as opposed to a smaller localized Ponzi scheme).

## Allowed in statute, but rarely, if ever used

- Election fraud
- Environmental crimes
- Obscenity offenses

# Prosecution: Regular AG and Solicitor

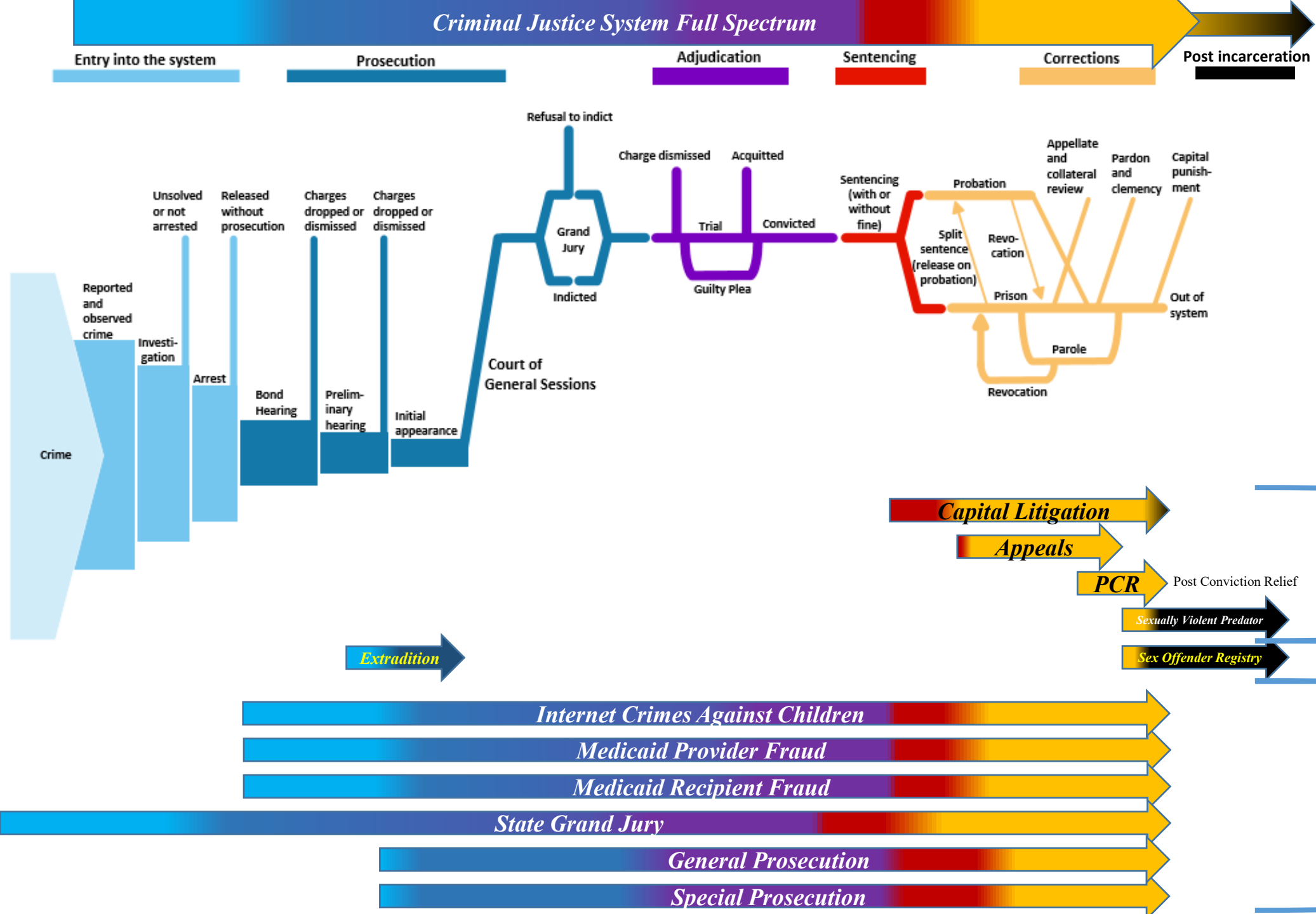
v.

# State Grand Jury



NOTE: No prosecutor can bring charges alone. They can only seek charges and then take it to the state or county grand jury who brings the charges. Once the charges are brought, the prosecutor determines how to dispose of them.

# Criminal Justice System Full Spectrum



Note: This slide shows where the Attorney General's Office services fall in the criminal justice system flow chart utilized by prior state criminal justice entities under review. It only includes General Sessions because juvenile justice, summary courts, and diversion programs are not a primary function of the Attorney General's office.

Criminal Litigation

Civil

Criminal Prosecution

# General Process

## SGJ “Investigation”

- May result in one or hundreds of cases against multiple defendants
- Each SGJ investigation is assigned a “code name” and “number” which is how the AG’s office and LE refer to the investigation



### State Grand Jurors (Charge with crime or not = Indictment)

- Listens to information and determines whether charges should be brought
- SGJ Jurors: Hear in depth information for an extended period (possibly years), from the inception of investigation (information presented by SGJ attorneys, fact witnesses, expert witnesses, etc.). Rules on **Indictments** - Similar format to Federal Grand Jury
- Different in operation from a County Grand Jury, which typically only hears information for a few minutes after an investigation is complete (information presented by law enforcement)

\*ALL charges



### Case/Charge (Alleged Crimes set forth in Indictments)

- Charge against an individual defendant within an investigation



### Trial Jury (Guilty of charge or Not)

- Listens to information and determines whether individual is guilty

# State Grand Jury Process Introduction

## Occurs Continuously

### State Grand Jury (SGJ) Legal Team and Law Enforcement Develop Investigation

#### Develop investigation

- Attempt to tie the following information together to identify/locate the bigger criminal organization:
  - Local Arrests or Indictments;
  - Uncharged conduct;
  - Historical and confidential informant information;
  - Citizen complaints/information;
  - Internal information;
  - Press;
  - Local/federal/agency help requests;
  - Prior SGJ cases

#### Determine if it could be a good case

- Complex multi-county narcotics trafficking organization case:
  - (1) Determine cause by figuring out how individual cases (symptoms) are related;
  - (2) Take out organization as whole, especially the leadership;
  - (3) Appropriate forfeiture
- Gang activity case:
  - Same strategy as narcotics (and often overlaps with narcotics)
- Public Corruption case:
  - (1) Significant or complex;
  - (2) Effect beyond just the case itself
- Complex White Collar case:
  - (1) Securities;
  - (2) Money Laundering;
  - (3) Computer Crime;
  - (4) Narcotics
- Human Trafficking case:
  - Relationship to narcotics, gangs, and white collar

# State Grand Jury: Investigation

## Step 1: *Initiate*

### STEP #1: **INITIATE** Official “Investigation” - SGJ Legal Team and Law Enforcement Officers (LEO)

- (1) SGJ Legal team bring the Chief of State Law Enforcement Division and the Attorney General a proposed investigation
- (2) Chief of SLED and AG sign off on investigation initiation
- (3) SGJ Legal team consult with circuit solicitors in applicable circuits
- (4) SGJ Legal team provides notification to the SGJ judge that states an SGJ investigation is being initiated and the jurisdictional basis for the investigation

### STEP #2: **CONDUCT** Investigation - SGJ Legal Team and LEO under oversight of SGJ Jurors

#### Monthly State Grand Jury Meetings (3 days of meetings each month, which is called the SGJ Monthly Term of Court)

##### Coordinated by SGJ Legal Team and SGJ Clerk of Court

- SGJ Legal team tells SGJ Clerk number of days they need the jurors (in total) (typically 1-3 consecutive days per month)
- SGJ Clerk informs the jurors of meeting dates BUT SGJ Clerk does not attend the meetings

##### Attended by SGJ Panel and SGJ Legal Team

- SGJ Jurors serves as representatives of people to oversee investigation conducted by SGJ attorneys and LEO
- Investigation plan decided by SGJ Jurors, with advice from SGJ Legal Team and Law Enforcement, during the meetings
  - *Investigative techniques include:* (1) Witness statements; (2) Search warrants; (3) Subpoena evidence [bank and financial records; business records; travel records; emails and digital evidence; utility records]; (4) Subpoena witness testimony [cooperators; as well as reluctant and difficult or noncooperative witnesses - Witness testimony to SGJ is under oath and it is illegal to lie to SGJ]; (5) State Authorized Wiretaps (must meet high standards and be approved by 5<sup>th</sup> circuit General Sessions administrative judge)
  - **Pre-indictment arrest warrants and bond hearing involve SGJ clerk, SGJ judge, SGJ legal team, and Law enforcement** - See “Pre-indictment warrants and hearing” document
  - Legal materials prepared by SGJ Legal Team may include: (1) Preparation of Subpoenas; (2) Questioning of Witnesses; (3) Legal Instruction

##### Motions or Objections decided by SGJ Judge

- SGJ Judge decides any motions or objections that arise during the investigation (e.g., motions to quash subpoenas, other objections similar to those during discovery in civil cases)

### STEP #3: **VOTE** to Indict – SGJ Jurors

#### Indictment Drafting and Vote

- SGJ Legal Team discusses options for different indictments and/or issue State Grand Jury Report with SGJ Panel
- SGJ Legal Team prepares and presents to SGJ Panel (typically numerous indictments presented at the same time).
- SGJ Jurors may discuss indictments more with SGJ Legal Team

- After all discussion, SGJ Legal Team leaves the room and SGJ Jurors vote to true bill (indict) or no bill (not indict). After vote, SGJ Juror foreperson provides SGJ clerk a signed envelope with jurors’ vote (Indictments have been “returned”)
  - SGJ Legal Team is unaware of how SGJ Jurors voted until the end of the SGJ Term of Court that month (i.e. end of three days)
  - Note: Statute authorizes SGJ to investigate issues that are less than crimes, but that they see as problems in the community or operation of government. Therefore, if SGJ jurors determines there is not sufficient information for an indictment, they can issue a State Grand Jury Report with findings.
- SGJ Clerk schedules a time for SGJ Judge to “take the returns” (i.e., judge announces the SGJ Jurors’ decision)

#### Indictment and Venue Announcement

At the end of a three day SGJ monthly term of court, when SGJ Clerk schedules SGJ Judge to “take the returns,” SGJ Judge does the following:

- Opens envelopes with SGJ Jurors’ vote and announces which indictments are true bill (i.e., indicted) and no bill (i.e., not indicted).
- Assigns appropriate venue (i.e., county) for prosecuting indictments that are true billed. Note: Conspiracy can be venued in any county conspiracy touched

#### SGJ Secrecy Oath given to staff (not witnesses) by SGJ Clerk

Throughout the year, as the SGJ Legal Team and SGJ Judge designate who is working with them, SGJ Clerk has them swear to the SGJ secrecy oath. Witnesses who testify before the grand jury are sworn in by the grand jury foreperson

Note: See “State v. County Grand Jury” document for difference in typical prosecution at county level versus state grand jury

## Step 2: *Conduct*

## Step 3: *Vote*





## Step 4: Warrant and Bond Hearing

### STEP #4: WARRANT and BOND HEARING for Indictment – SGJ Legal Team and LEO; SGJ Clerk; SGJ Judge

#### *Processing the Indictments*

- SGJ Clerk creates single folder for the indictment

#### *Indictment Warrants and Bond Hearing*

- SGJ Legal Team and LEO provide SGJ Clerk information for drafting indictment warrant (i.e., Defendant's information and charges for which defendant is being arrested)
- SGJ Clerk creates a warrant document
- Clerk provides provide the Fifth Judicial Circuit Chief Administrative Judge the warrant to review and sign
- SGJ Clerk provides signed indictment warrant to LEO to serve
- LEO serves warrant and makes arrest
  - If offender is already in custody, warrant is served on offender and offender remains in custody; If not, offender is brought into custody
- Indictment warrant bond hearing process is the same as a pre-indictment warrant bond hearings, see "Pre-indictment warrants and hearing" document
  - If it is a high profile case, the clerk coordinates with media (note, media typically only know about indictment warrants, because pre-indictment warrants are sealed)
- SGJ Clerk creates individual folders for each defendant

# Example Warrant

Defendant's Information

Prosecuting Agency and Officer

Offense Code = State Statute

Code/Ordinance Section =

Criminal offense code created by the General Assembly and common law and court opinions

**ARREST WARRANT**

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STATE OF SOUTH CAROLINA  
County of Kershaw  
2021A470010015

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**THE STATE**  
Against  
Jeremy Akeen McCray  
(Defendant)

Address: 107 Railroad Ave., Camden, SC 29020  
Phone: \_\_\_\_\_  
SSN: 243-87-6731  
Sex: M Race: Blk Height: 5'3" Weight: 145  
DL State: SC DL# \_\_\_\_\_  
DOB: 5/1/1990 Agency ORI#: SCLED0001  
Prosecuting Agency: SLED  
Prosecuting Officer: S/A Jamie Shaw  
Offense: Criminal Conspiracy  
Offense Code: 16-17-410  
Code/Ordinance Section: 49

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This warrant is **CERTIFIED FOR SERVICE** in the County of Kershaw.  
The accused is to be arrested and brought before me to be dealt with according to law.  
[Signature] (L.S.)  
Signature of Judge  
Date: October 20, 2020

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RETURN

A copy of this arrest warrant was delivered to defendant Jeremy Akeen McCray on 10/20/2021.  
[Signature]  
Signature of Constable/Law Enforcement Officer

**FILED**  
NOV 03 2021  
MARGARET J. SELF  
CLERK, SC STATE GRAND JURY

**AFFIDAVIT**

STATE OF SOUTH CAROLINA )  
County of Kershaw )

Personally appeared before me the affiant Special Agent Daniel Coulter Special Agent Jamie Shaw who being duly sworn deposes and says that defendant Jeremy Akeen McCray did within this County and State on October 20, 2021 violate the criminal laws of the State of South Carolina (or ordinance) of the County of Kershaw in the following particulars: **DESCRIPTION OF OFFENSE: Criminal Conspiracy**

I, further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on or about October 17, 2021, Jeremy Akeen MCCRAY did commit the offense of Criminal Conspiracy in Kershaw county, South Carolina. It was determined by law enforcement that Jeremy McCray obtained a gasoline fuel with the intention to start a fire at the residence of 1012 Queen Street, Camden, located in Kershaw County, South Carolina. On October 17, 2021, Jeremy McCray learned a narcotics package was possibly stolen from him by Dwight Ali McCray. Upon information and belief, Jeremy McCray contacted Jake McCray and conspired to retaliate against Dwight Ali McCray. Jeremy McCray conspired with Jake McCray to obtain a gasoline fuel in order to set fire to the residence of Dwight Ali McCray, which is known to be 1012 Queen Street, Camden. Jake McCray agreed to wait until early morning hours before attempting to set fire to the residence. On October 19, 2021, Jeremy McCray contacted an unwitting third party, who is also a source of information for law enforcement and has provided accurate and reliable information in the past, and asked them to purchase a small amount of gasoline. Upon information and belief, the unwitting third party did not have knowledge of the intended criminal purpose for which the gasoline was to be used. Jeremy McCray instructed the unwitting third party to place the container of gasoline on an unknown residence porch for him to later retrieve, adding that he would pay them back at a later time. Electronic cellular telephone monitoring showed Jeremy McCray to be located in the Camden area during the time the structure fire was reported to law enforcement. The SLED Arson Unit conducted an Origin and Cause Investigation which revealed that an accelerant was utilized in the attempt to set fire to the rear of the residence. The origin of the structure fire was located on the outside of the residence against an exterior wall of a residence bedroom. Present in the residence at the time of the arson was Dwight Ali McCray, another adult and four (4) minor children.

[Signature]

Sworn to and subscribed before me on ) <u>October 20, 2021</u> )	Signature of Affiant <u>SLED</u>
_____) ) <u>[Signature]</u> (L.S.)	Affiant's Address <u>P.O. Box 21398</u>
Signature of Judge	_____) ) Columbia SC 29221
	Affiant's Telephone <u>803-737-9000</u>

**STATE OF SOUTH CAROLINA )**  
County of Kershaw ) **ARREST WARRANT**

**TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MINICIPALITY OR ANY CONSTABLE OF THIS COUNTY:**  
It appearing from the above affidavit that there are reasonable grounds to believe that on October 20, 2021 defendant Jeremy Akeen McCray did violate the criminal laws of the State of South Carolina (or ordinance of the County of Kershaw) as set forth below:  
**DESCRIPTION OF OFFENSE: Criminal Conspiracy**  
Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.  
[Signature] )  
Signature of Issuing Judge


# Example Warrant for Post-SGJ Direct Indictment

Defendant's Information

Offenses in SGJ Indictment(s)

Code/Ordinance Section =  
Criminal offense code created by  
the General Assembly and  
common law and court opinions

SGJ Presiding Judge

STATE OF SOUTH CAROLINA	
STATE OF SOUTH CAROLINA	WARRANT FOR ARREST
vs.	
BILAL SHAHEED HARRIS A/KA "YOSHI"	CASE NUMBER: 2020-GS-47-20 (Superseding)
TO: Any Law Enforcement Officer of this State, or Any County or Municipal Officer Within his Jurisdiction	
YOU ARE HEREBY COMMANDED to arrest BILAL SHAHEED HARRIS A/KA "YOSHI" and bring him or her forthwith before me to answer an Indictment of the State Grand Jury of South Carolina charging him or her with:	
CONSPIRACY; ASSAULT AND BATTERY 2 <sup>ND</sup> DEGREE (SERIOUS BODILY INJURY RESULTS) PRISONER CARRYING OR CONCEALING A WEAPON	
in violation of 1976 Code of Laws of South Carolina, as amended, Section(s) 16-17-0410; 16-3-0210(C); 24-13-0440. A copy of this Warrant for Arrest shall be delivered to the defendant at the time of its execution, or as soon thereafter as practicable.	
<u>August 27</u> , 2021 Date	Alison Renee Lee Name of Presiding Judge
Columbia, SC Location	 Signature of Presiding Judge
RETURN	
This warrant was received and executed with the arrest of the above-named defendant at _____ _____, 2021. A copy of this warrant was delivered to the defendant on _____, 2021.	
Date Received: _____	Name and Title of Arresting Officer
Date of Arrest: _____	Signature of Arresting Officer

## Step 5: Trial

### STEP #5: TRIAL for Indictment – SGJ Legal Team, SGJ Clerk, Trial Judge, Trial Jurors

#### *Assignment of Trial Judge*

- SGJ Clerk contacts Court Administration to request a trial judge be assigned to the case in the jurisdiction and county venue
- Court Administration emails SGJ Clerk an order assigning a judge. The assignment is based on the SGJ investigation number, because there may be numerous indictments all connected with the same investigation. The same trial judge will hear all matters related to the investigation.

#### *Discovery*

- Trial Judge issues protective order to allow Defendant's attorney (privately obtained or assigned) access to SGJ Legal Team evidence and transcripts from SGJ Investigation
  - Protective order states Defendant's attorney is only permitted to use/disclose the information as needed for defense at trial
  - All SGJ Monthly Meetings are recorded so Defendant's attorney has access to the information if an indictment and trial occur
- SGJ Legal Team provides all evidence collected during investigation to Defendant's attorney

#### *Civil Forfeiture*

- Where appropriate, SGJ utilizes the Attorney General's Civil Litigation division to assist in forfeiture proceedings (i.e. taking ill-gotten gains of criminal organizations)

#### *Motions and Hearing dates*

- SGJ Clerk receives any motions filed by either party and provides to assigned Trial Judge
- Trial Judge decides whether to have a hearing. If Trial Judge wants a hearing, Judge will tell the SGJ Clerk the date and time of the hearing
- SGJ Clerk informs parties and their attorneys of date/time and if attorneys are unavailable, SGJ Clerk goes back to Trial Judge for another date. This continues until available date for everyone is reached.

## Step 5 (cont.) *Trial*

### STEP #5 (cont.): TRIAL for Indictment – SGJ Legal Team, SGJ Clerk, Trial Judge, Trial Jurors

#### ***Plea***

- SGJ ranks defendants in tiers based on prior record, involvement in crime, etc. and sends plea offers to Defendants attorneys. Most cases end as pleas
  - Cooperation of Defendant as a result of a plea may expand information available about the criminal organization and lead to expanded SGJ investigation and new indictments as well as superseding indictments (i.e., new defendants added to a count on an existing indictment)
  - Defendant can choose to have the plea address any civil forfeiture as well
- SGJ Clerk follows same process as “Motions and Hearing dates” above to schedule plea.
- Trial Judge enters sentence based on plea agreement

#### **Trial occurs (if no plea agreement reached)**

- SGJ Clerk follows same process as “Motions and Hearing dates” above to schedule trial
- Trial Jurors selected from county in which trial is venued, using same process as prosecution of non-state jury indictments (Note: This jury is different than the SGJ Jurors)
- Trial Judge presides and trial proceeds using same process as prosecution of non-state jury indictments
- Trial Jurors determine Defendant’s guilt or innocence

#### **Sentencing**

- SGJ Clerk follows same process as “Motions and Hearing dates” above to schedule any post trial sentencing hearings
- Trial Judge enters sentence

#### ***After Sentencing***

- SGJ Clerk emails scanned copies of documents to the following:
  - Detention centers: Sentencing Sheets
  - SGJ Legal Team (Prosecutors): Sentencing Sheets and Plea Agreements
  - Defendant’s Attorney: Sentencing Sheets and Plea Agreements
- For Defendant’s sentenced to probation, SGJ Clerk emails scanned copies of documents to the following:  
Department of Probation, Parole, and Pardon Services: Sentencing Sheets and Indictments
- SGJ Clerk manually reenters information from each individual sentencing sheet into an online form and uploads it to Court Administration through a County Stats Portal (SGJ is the 47<sup>th</sup> county)

**State Grand Jury**

**Clerk of Court**

**Services and Performance Measures**

## Pre-Empanelment Process of Juror Selection

- Compile lists of jurors from each county based on population, approximately 4500 potential jurors.
- A random selection of 700 jurors statewide takes place electronically and forms are sent to those jurors.
- Once forms are received, jurors are qualified.
- Another random selection occurs and the juror pool is narrowed to 60 jurors who are summoned to Columbia for jury selection for service on the State Grand Jury.

## Selection of State Grand Jury

- Work with the State Grand Jury prosecution team within the Attorney General's Office and the Chief Administrative Judge for the 5th Circuit Court to qualify jurors to serve in this capacity for two six-month terms per year. By statute, juries can be held over for extended jury service.
- A random jury selection of 22 jurors, 18 regular jurors and 4 alternate, to serve on the Statewide Grand Jury.

Please note that due to case volume and investigation length, some years require juries to be held over for additional six month periods of service.

### Agency Service #197: Pre-Empanelment Process of juror selection

Does law require it: Yes

Assoc. Law(s): Section 14-7-1600, 14-7-1970 (State Grand Jury Act)

Single Unit: One jury empaneled	<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	226.00	\$2,326.03	3.26	\$139,896.30	0.71%
2017-18	184.00	\$1,098.36	3.26	\$202,099.00	0.34%
2018-19	171.00	\$1,380.70	3.26	\$236,099.00	0.35%
2019-20	Not provided	Insufficient data	3.26	\$136,085.61	0.18%

### Agency Service #198: Selection of State Grand Jury

Does law require it: Yes

Assoc. Law(s): Section 14-7-1600, 14-7-1630(B), 14-7-1970 (State Grand Jury Act)

Single Unit: One juror	<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	22.00	\$2,326.03	3.26	\$206,761.14	1.05%
2017-18	22.00	\$9,859.77	3.26	\$216,915.00	0.36%
2018-19	22.00	\$11,441.91	3.26	\$251,722.00	0.38%
2019-20	22.00	\$5,108.98	3.26	\$112,397.57	0.15%



## Juror Service

- Jurors typically service 1-3 day terms each month
- Terms are scheduled by the State Grand Jury Section of the Attorney General's Office.

Notes: In the past few years, there has been the rare occasion to have two State Grand Juries seated on the same month. This is due to extending investigations and pending indictments on State Grand Jury investigations and special designated prosecutors.

## State Grand Jury Secrecy Oath

- Individuals are sworn in by the Clerk of the State Grand Jury in person and take the Oath of secrecy.
  - On jury selection day, large groups of individuals are sworn in as a group.
  - Throughout the year, individuals are sworn in as they are employed with the Attorney General's Office and other individuals as designated by the Chief
- Statute requires any person working with the State Grand Jury be sworn to keep the confidentiality of the State Grand Jury and not disclose information that is confidential in nature.

\*Does not include witnesses who testify before the SGJ. Those witnesses are sworn in by the SGJ foreperson)

Agency Service #199: Juror Service	Single Unit: One juror	<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>Does law require it:</u> Yes		2016-17	22.00	\$2,326.03	3.26	\$21,492.05	0.11%
<u>Assoc. Law(s):</u> Section 14-7-1600, 14-7-1970 (State Grand Jury Act)		2017-18	22.00	\$1,103.00	3.26	\$24,266.00	0.04%
		2018-19	22.00	\$1,103.00	3.26	\$24,266.00	0.04%
		2019-20	22.00	\$5,302.96	3.26	\$116,665.22	0.15%

Agency Service #200: State Grand Jury Secrecy Oath	Single Unit: One individual sworn in	<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>Does law require it:</u> Yes		2016-17	251.00	\$2,326.03	3.26	\$6,441.42	0.03%
<u>Assoc. Law(s):</u> Section 14-7-1600, 14-7-1970 (State Grand Jury Act)		2017-18	305.00	\$28.34	3.26	\$8,644.00	0.01%
		2018-19	321.00	\$26.93	3.26	\$8,644.00	0.01%
		2019-20	Not provided	Insufficient data	3.26	\$236,614.32	0.31%

# Performance Measures

Prior to the House Legislative Oversight Process the State Grand Jury Clerk of Court did not track any performance measures.

The section is currently in the process of determining appropriate measures and credible means of tracking those measures.

# Summary

## State Grand Jury Clerk's Office:

- administers procedures for jury selection,
- supervises bond hearing arrangements,
- manages filing system for court records, and
- coordinates logistical needs for the monthly State Grand Jury meetings

## Successes

- Ability to utilize virtual court room

## Concerns

- Need for case management system and additional technology capabilities

**State Grand Jury**

**Legal Team**

**Services and Performance Measures**

## Investigate and prosecute the following:

### Multi-County Narcotics Cases and Recover Drug Forfeiture Funds

(Agency Service #184)

Ultimately, multiple people may end up being indicted in one investigation, so this number is distinct from the number of actual charges brought, as set forth collectively for all jurisdictional subject matter

*\* = numbers updated since PER*

Primary Jurisdiction Single Unit: Open Investigations Narcotics (Historical Average 86 cases/inv)		<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	15.00	\$2,326.03	2.62	\$367,241.50	1.87%
	2017-18	19.00	\$17,344.09	2.62	\$329,537.66	0.55%
<u>Does law require it:</u> Yes	2018-19	16.00	\$23,836.24	2.62	\$381,379.82	0.57%
<u>Assoc. Law(s):</u> S.C. Code 14-7-1630(A)(1)	2019-20	13.00	\$22,178.62	3.00	\$288,322.10	0.37%

### Criminal Gangs and a pattern of criminal gang activity

(Agency Service #185)

Primary Jurisdiction Single Unit: Open Investigations Criminal Gangs (Historical Average 95 cases/inv)		<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	3.00	\$2,326.03	1.25	\$310,580.57	1.58%
	2017-18	4.00	\$70,172.26	1.25	\$280,689.04	0.47%
<u>Does law require it:</u> Yes	2018-19	3.00	\$60,374.27	1.25	\$181,122.82	0.27%
<u>Assoc. Law(s):</u> S.C. Code 14-7-1630(A)(2)	2019-20	3.00*	\$48,793.10*	1.60	\$146,379.30	0.19%

### Public Corruption Cases

(Agency Service #186)

Primary Jurisdiction Single Unit: Open Inv. Public Corruption (Historical Average 17 cases/inv)		<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	6.00*	\$2,326.03	2.43	\$310,580.57	1.58%
	2017-18	10.00	\$28,068.90	2.43	\$280,689.04	0.47%
<u>Does law require it:</u> Yes	2018-19	10.00*	\$32,316.37*	2.43	\$323,163.71	0.48%
<u>Assoc. Law(s):</u> S.C. Code 14-7-1630(A)(3)	2019-20	14.00*	\$23,726.09*	3.60	\$332,165.29	0.43%

# Investigate and prosecute the following:

## Securities Fraud Cases

(Agency Service #187)

Ultimately, multiple people may end up being indicted in one investigation, so this number is distinct from the number of actual charges brought, as set forth collectively for all jurisdictional subject matter

*\* = numbers updated since PER*

Primary Jurisdiction Single Unit: Securities Fraud Open Investigations ( <u>Historical Average 18 cases/inv</u> )	Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
2016-17	0.00*	\$2,326.03	1.61	\$191,809.62	0.98%
2017-18	2.00	\$89,176.18	1.61	\$178,352.35	0.30%
2018-19	2.00	\$99,882.17	1.61	\$199,764.34	0.30%
2019-20	1.00	\$64,307.09	0.80	\$64,307.09	0.08%
<u>Does law require it:</u> Yes					
<u>Assoc. Law(s):</u> S.C. Code 14-7-1630(A)(7)					

## Human Trafficking Cases

(Agency Service #188)

Primary Jurisdiction Single Unit: Human Trafficking Open Investigations	Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
2016-17	1.00	\$2,326.03	2.00	\$20,043.24	0.10%
2017-18	0.00	Insufficient data	0.00	\$19,867.91	0.03%
2018-19	0.00*	Insufficient data	2.00	\$23,040.53	0.03%
2019-20	1.00	\$0.00	0.00	\$0.00	0.00%
<u>Does law require it:</u> Yes					
<u>Assoc. Law(s):</u> S.C. Code 14-7-1630(A)(13)					

## Other Areas of State Grand Jury Jurisdiction

(Agency Service #189)

Recently and historically, cases on these subject matters have not been initiated or have rarely been initiated.

Primary Jurisdiction Single Unit: Other SGJ jurisdiction open investigations	Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
2016-17	1.00	\$2,326.03	2.00	\$26,831.83	0.14%
2017-18	0.00	Insufficient data	0.00	\$25,112.31	0.04%
2018-19	0.00	Insufficient data	0.00	\$12,269.62	0.02%
2019-20	0.00	Insufficient data	0.00	\$0.00	0.00%
<u>Does law require it:</u> Yes					
<u>Assoc. Law(s):</u> S.C. Code 14-7-1630(A)(4), (5), (6), (8), (9), (10), (11), and (12)					

- Election laws
- Computer crimes
- Terrorism
- Obscenity
- Money Laundering (usually subsumed)
- False statement on alien's lawful presence
- Immigration
- Environmental

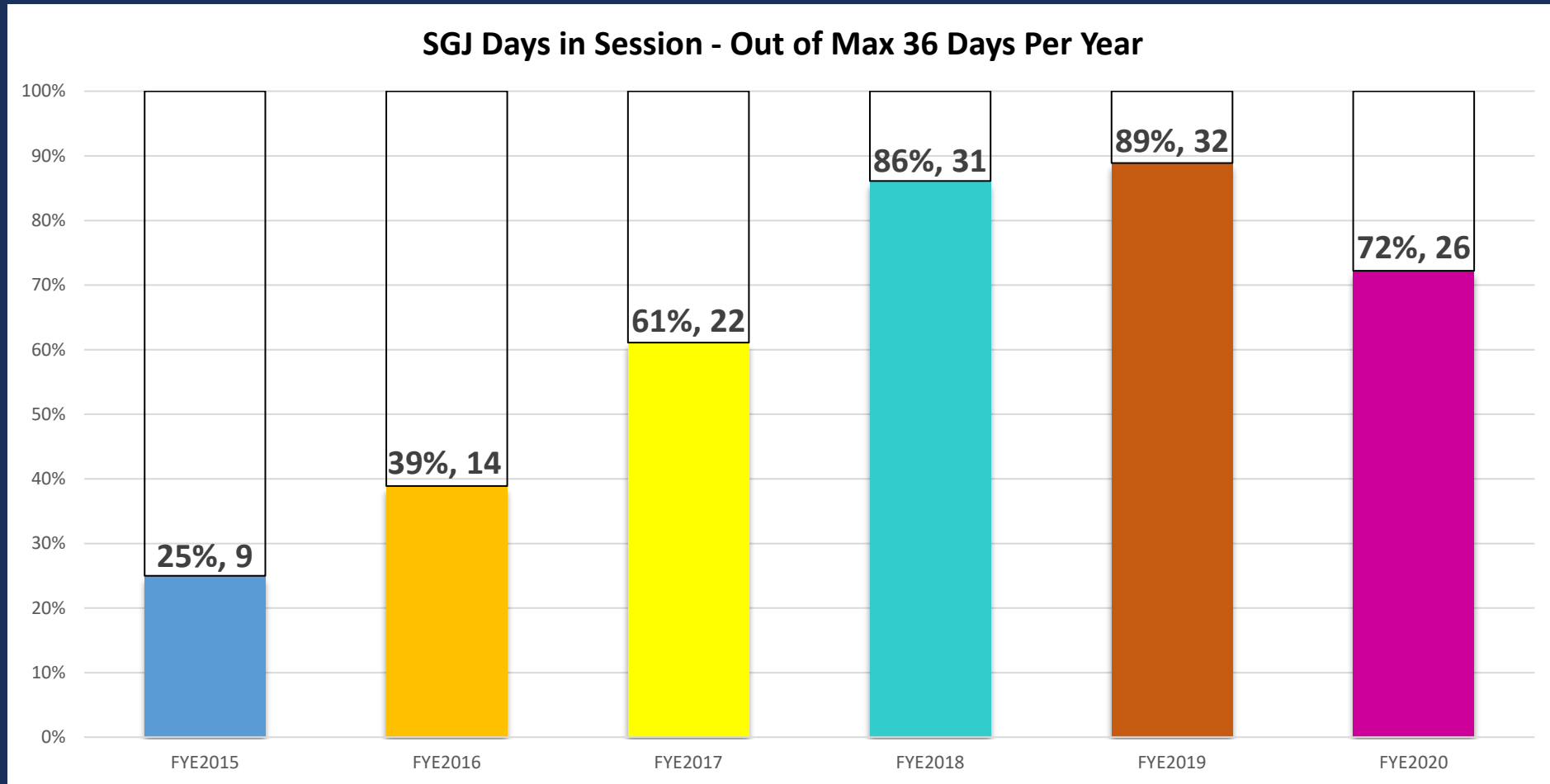
# Performance Measures

Current SGJ Legal Team began in March 2017.

Increased Pace.

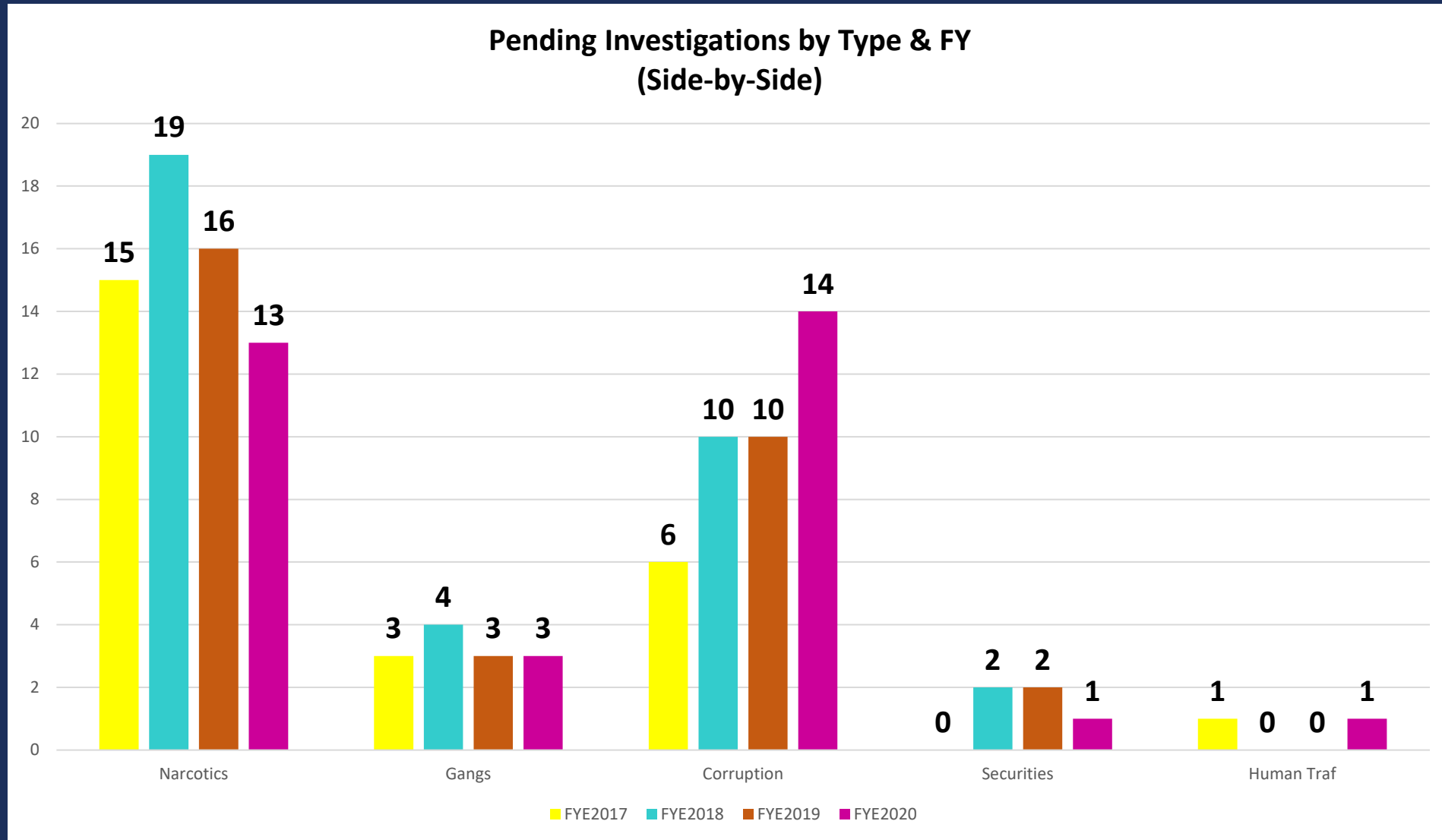
The section is currently in the process of determining appropriate performance measures and credible means of tracking those measures.

# Performance Measures

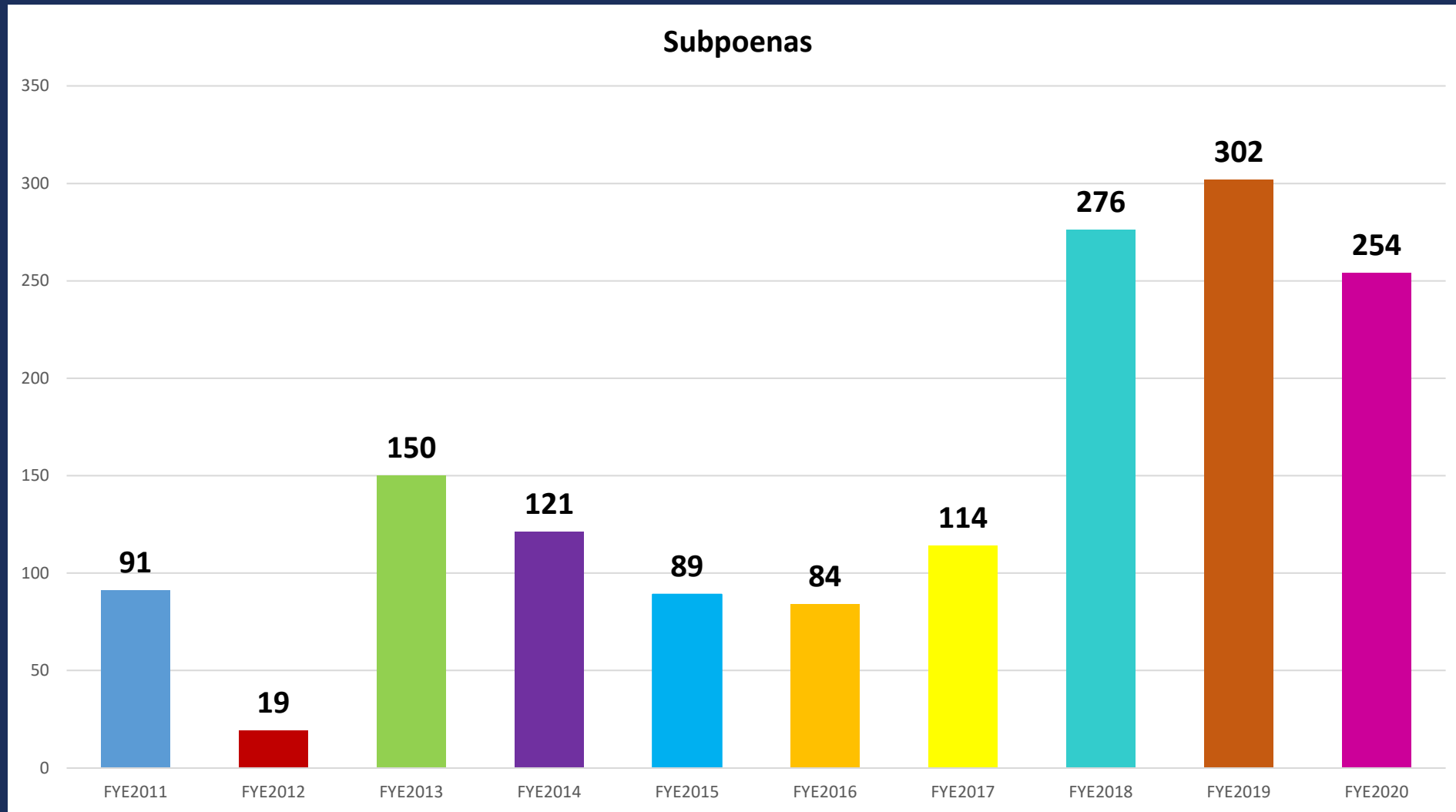




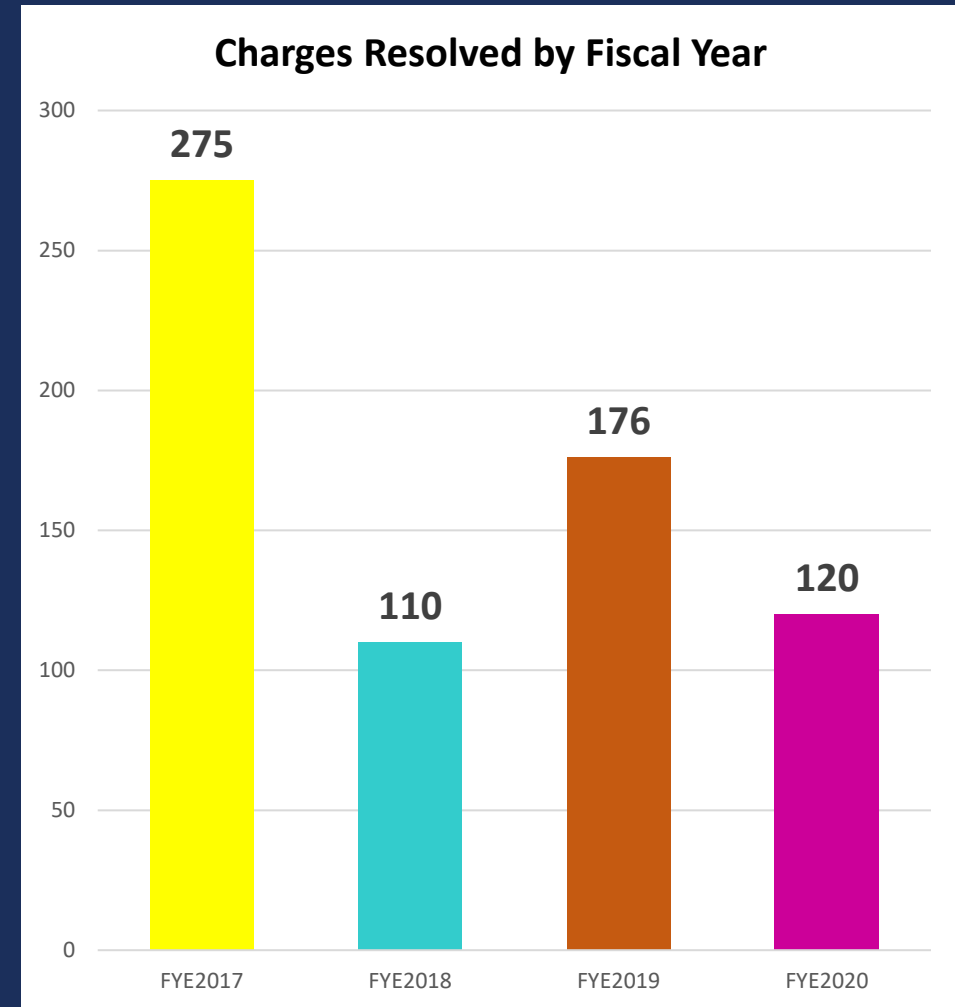
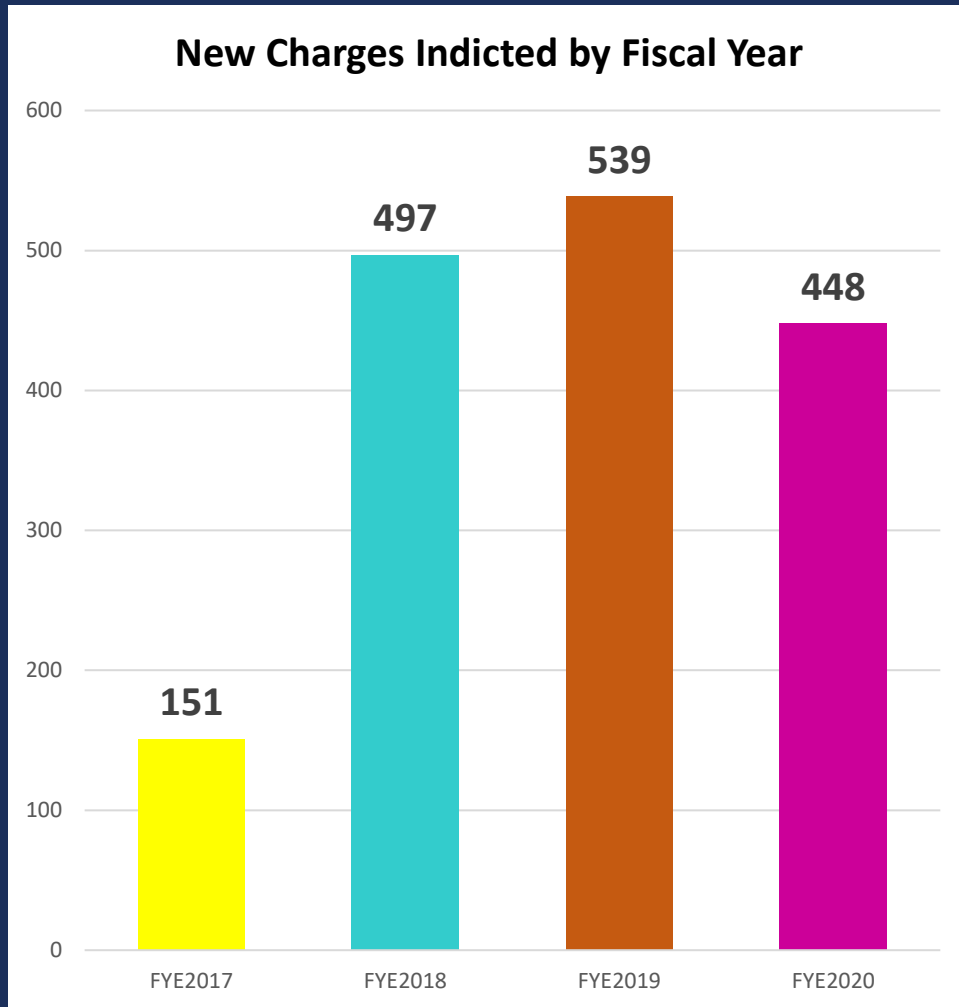
# Performance Measures



# Performance Measures



# Performance Measures



# Concerns

Case Management System and other technology capabilities

Many technology capabilities, even basic software, is going to the cloud

Statute currently requires secrecy, without consideration of the above



# SGJ - 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 #30

- Law: S.C. Code Section 44-53-190(B) Define Fentanyl and add a Fentanyl Trafficking Provision
- Current Law: Does not have a Fentanyl Trafficking provision
- Recommendation: Given the opiate crisis, add a Fentanyl trafficking provision.
- Basis for Recommendation: The availability of imported and cheap fentanyl is fueling the opiate epidemic.
- Others Potentially Impacted: Law enforcement, solicitors, DHEC, SCDC

**SECTION 44-53-190.** Schedule I.

(A) The controlled substances listed in this section are included in Schedule I.

(B) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

...

( ). Fentanyl-related substance. Unless specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, any material, compound, mixture, or preparation, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers, that is structurally related to fentanyl by one or more of the following modifications:

(A) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

(B) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino or nitro groups;

(C) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;

(D) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or

(E) Replacement of the N-propionyl group by another acyl group.

This definition includes, but is not limited to, the following substances:

Methylacetyl fentanyl, Alpha-methylfentanyl, Methylthiofentanyl, Benzylfentanyl, Beta-hydroxyfentanyl, Beta-hydroxy-3-methylfentanyl, 3-Methylfentanyl, Methylthiofentanyl, Fluorofentanyl, Thenylfentanyl or Thienyl fentanyl, Thiofentanyl, Acetylfentanyl, Butyrylfentanyl, Beta-Hydroxythiofentanyl, Lofentanil, Ocfentanil, Ohmfentanyl, Benzodioxolefentanyl, Furanyl fentanyl, Pentanoyl fentanyl, Cyclopentyl fentanyl, Isobutyryl fentanyl, Remifentanil, Crotonyl fentanyl, Cyclopropyl fentanyl, Valeryl fentanyl, Fluorobutyryl fentanyl, Fluoroisobutyryl fentanyl, Methoxybutyryl Fentanyl, Isobutyryl fentanyl, Chloroisobutyryl fentanyl, Acryl fentanyl, Tetrahydrofuran fentanyl, Methoxyacetyl fentanyl, Fluorocrotonyl fentanyl, Cyclopentenyl fentanyl, Phenyl fentanyl, Cyclobutyl fentanyl, Methylcyclopropyl fenantyl

**SECTION 44-53-370.** Prohibited acts A; penalties.

...

(e) Any person who knowingly sells, manufactures, cultivates, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of:

...

(3) four grams or more of any morphine, ~~opium~~ opiate, salt, isomer, or salt of an isomer thereof, including heroin, as described in Section 44 53 190 or 44 53 210, or four grams or more of any fentanyl or fentanyl-related substance as described in Section 44-53-190 or 44-53-210, or four grams or more of any mixture containing any of these substances, is guilty of a felony which is known as “trafficking in illegal drugs” and, upon conviction, must be punished as follows if the quantity involved is:

- (a) for a first offense, a term of imprisonment of not more than twenty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
- (b) for a second or subsequent offense, a term of imprisonment of not more than thirty years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;
- (c) for an offense that results in a fatal overdose, the term of imprisonment must be increased by an additional sentence of up to twenty years to run consecutively.”



# LAW CHANGE RECOMMENDATION #31

- Law: S.C. Code Section 16-3-60. Involuntary manslaughter; "criminal negligence" defined.
- Current Law: Involuntary Manslaughter is defined as criminal negligence, but the case law defines it as an unlawful act not amounting to a felony and not naturally tending to cause death or serious bodily harm. The penalty is only 5 years.
- Recommendation: Define Involuntary Manslaughter as including the sale of drugs, particularly opiates, where death results, and increase the penalty to 15 years.
- Basis for Recommendation: Given the opiate and meth crisis, some sort of justice for dealers who sell deadly drugs is necessary. This also gives voice to the victims who were sold drugs with deadly concentrations. This bill is currently proposed and is in the House.
- Others Potentially Impacted: Law enforcement, Solicitors, DHEC, SCDC

**SECTION 16-3-60.** Involuntary manslaughter; "criminal negligence" defined.

With regard to the crime of involuntary manslaughter, criminal negligence is defined as the reckless disregard of the safety of others. A person charged with the crime of involuntary manslaughter may be convicted only upon a showing of criminal negligence as defined in this section. Involuntary manslaughter may include, but is not limited to, the knowing and unlawful sale or delivery of a controlled substance, controlled substance analogue, or other unlawful substance when the ingestion of such substance caused the death of the user. A person convicted of involuntary manslaughter must be imprisoned not more than five years, except that a person convicted of involuntary manslaughter for the unlawful sale or delivery of a controlled substance, controlled substance analogue, or other unlawful substance when the ingestion of such substance caused the death of the user is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

# LAW CHANGE RECOMMENDATION #32

- Law: S.C. Code Section 14-7-1750. Indictment by state grand jury; sealed indictment.
- Current Law: Current law just says SGJ charges should be venued in the county where appropriate.
- Recommendation: Allow related charges indicted by the SGJ to be tried together in one county where at least one of the related charges occurred.
- Basis for Recommendation: SGJ was in many instances created to address multi-county crime, because crime often transcends county lines. This would allow all related crimes of a multi-county criminal enterprise or spree to be tried together in one county, even if individual substantive crimes related to that enterprise occurred in a different county.
- Others Potentially Impacted: None

**SECTION 14-7-1750.** Indictment by state grand jury; sealed indictment.

In order to return a "true bill" of indictment, twelve or more state grand jurors must find that probable cause exists for the indictment and vote in favor of it. Upon indictment by a state grand jury, the indictment must be returned to the presiding judge. If the presiding judge considers the indictment to be within the authority of the state grand jury and otherwise in accordance with the provisions of this article, he shall return the indictment by order to the county where venue is appropriate under South Carolina law for prosecution by the Attorney General or his designee; provided, however, that related offenses indicted by the State Grand Jury which occurred in different counties may be tried together in one of the counties in which at least one of the related offenses occurred, and venue shall not be a basis for acquittal in such a circumstance as long as venue was appropriate for at least one of the related offenses in the county in which the trial occurred. The presiding judge may direct that the indictment be kept secret until the defendant is in custody or has been released pending trial. Thereupon, the clerk of the state grand jury shall seal the indictment, and no person shall disclose the return of the indictment except when necessary for the issuance and execution of a warrant.

# LAW CHANGE RECOMMENDATION #33

- Law: S.C. Code Section 14-7-1630(A) (12)
- Current Law: Current law requires a \$2M threshold and also that it be certified by an independent environmental engineer who must be contracted by the Department of Health and Environmental Control.
- Recommendation: Lower the threshold and provide the certification can be done by any “environmental engineer”.
- Basis for Recommendation: \$500,000 is still very significant but would open up more cases for possible SGJ review that have possible health effects on the community. Finding an “independent environmental engineer who must be contracted by DHEC” is difficult; “professional engineers” are still certified.
- Others Potentially Impacted: DHEC

**SECTION 14-7-1630.** Jurisdiction of juries; notification to impanel juries; powers and duties of impaneling and presiding judges; transfer of incomplete investigations; effective date and notice requirements with respect to orders of judge; appeals.

(A) The jurisdiction of a state grand jury impaneled pursuant to this article extends throughout the State.

The subject matter jurisdiction of a state grand jury in all cases is limited to the following offenses:

...

(12) a knowing and wilful crime involving actual and substantial harm to the water, ambient air, soil or land, or both soil and land. This crime includes a knowing and wilful violation of the Pollution Control Act, the Atomic Energy and Radiation Control Act, the State Underground Petroleum Environmental Response Bank Act, the State Safe Drinking Water Act, the Hazardous Waste Management Act, the Infectious Waste Management Act, the Solid Waste Policy and Management Act, the Erosion and Sediment Control Act, the South Carolina Mining Act, and the Coastal Zone Management Act, or a knowing and wilful crime arising out of or in connection with environmental laws, or any attempt, aiding, abetting, solicitation, or conspiracy to commit a knowing and wilful crime involving the environment if the anticipated actual damages including, but not limited to, the cost of remediation, are five hundred thousand ~~two million~~ dollars or more, as certified by an independent professional environmental engineer ~~who must be contracted by the Department of Health and Environmental Control~~. If the knowing and wilful crime is a violation of federal law, then a conviction or an acquittal pursuant to federal law for the same act is a bar to the impaneling of a state grand jury pursuant to this section.