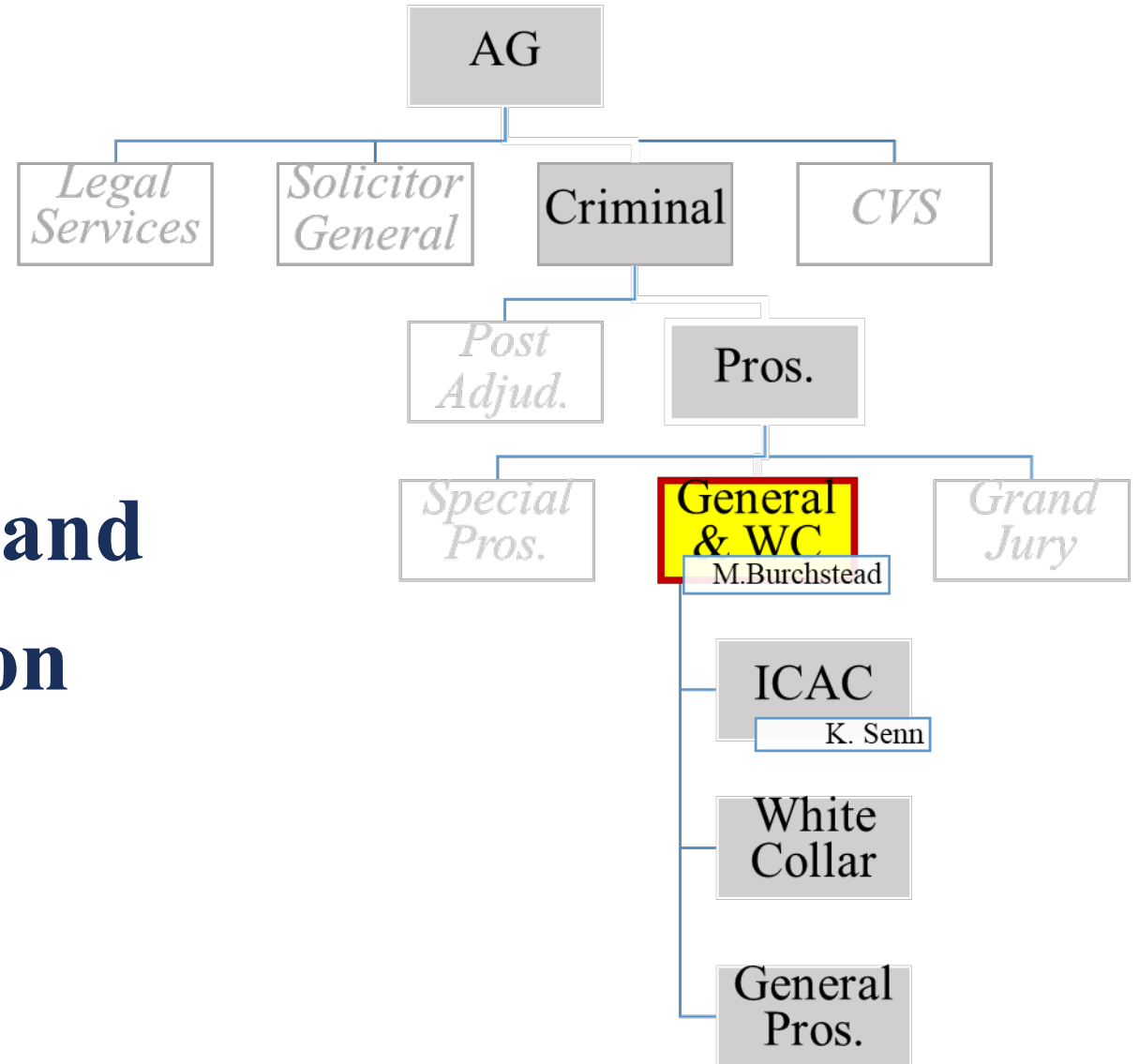




General Prosecution and White Collar Section



Personnel

General Prosecution:

Megan Burchstead (SADAG)
Jason Anders (SAAG)
Joel Kozak (AAG)
Savanna Goude (AAG)
Vacant Attorney (as of 7/30/2021)

Support Staff:

Connor Roark (Paralegal)
Nancy Smith (LA)
Hunter Dunn (Law Clerk)
Molly Keegan (Law Clerk)
Erica Zippel (Intern)

Insurance Fraud:

LaRone Washington (ADAG/Director)
Eric Guimares (AAG)
Madison Marchant (AAG)
Jordan Grubbs (PC)
Melanie Cain (LA)

Securities:

Tracy Meyers (SAAG)

Personnel

	Turnover	Leave unit during year	Exit Interviews or surveys conducted?	In unit at end of year	All Employee Performance Reviews Conducted (EMPS)?	Employee satisfaction tracked?
2016-17	48%	13	Yes	22	Yes	No
2017-18	36%	8	Yes	22	Yes	Yes
2018-19	23%	5	Yes	21	Yes	No
2019-20	5%	1	Yes	21	Yes	No

Prior to April 2, 2017 - Attorneys assigned to Prosecution Section handled both general prosecution and State Grand Jury

After April 2, 2017 - Separate State Grand Jury Section was formed.

FY 2017 turnover reflects a shift in organizational structure as employees transferred to the new State Grand Jury Section.

FY 2018 Turnover: 25% - employment outside of state government; 12.5% - employment with another state agency; 37.5% - personal reasons; 12.5% - retirement; 12.5% - internal transfer.

General Prosecution & White Collar

The AG is the Chief Prosecutor.

Along with the 16 Circuit Solicitors, the AG has concurrent prosecution authority of criminal matters within South Carolina.

The majority of the Section's cases are referred by Solicitors due to a conflict of interest.

The AG has authority to take any case, but AG Wilson has given great deference to local Solicitors and maintains a working relationship with all.

White collar crimes are highly intensive in documentation and require special expertise. Securities, insurance and financial fraud are examples.

Criminal Justice System Full Spectrum

Entry into the system

Prosecution

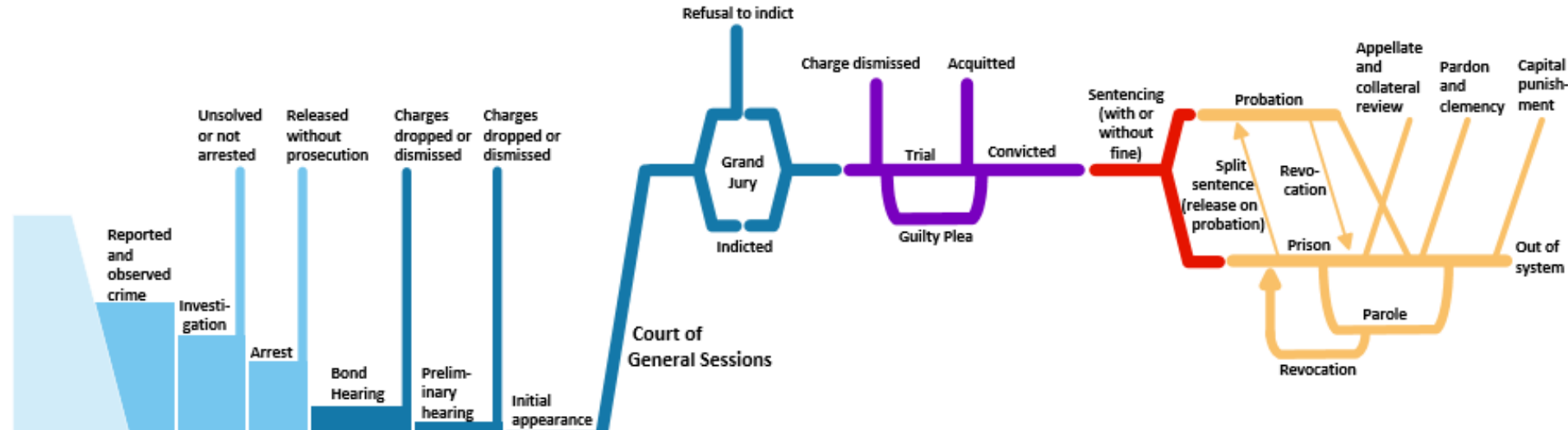
Adjudication

Sentencing

Corrections

Post incarceration

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.



Extradition

Capital Litigation

Appeals

PCR Post Conviction Relief

Sexually Violent Predator

Sex Offender Registry

Criminal Litigation

Civil

Criminal Prosecution



Typical Actions in Adult Criminal Cases (except Capital Murder)

Where the AG takes over is different for each case and dependent upon when the Solicitor determines there is a conflict

NOTE: S.C. Supreme Court determined hearings should be scheduled in the way decided by a judge in furtherance of State v. Langford. Therefore, Solicitor/AG no longer schedule hearings, unless a particular judge has granted court time and instructed them to do it.

Step	Actions Required to Move Case Forward ²	Entity Responsible for the Action
1	Citation, Ticket, or Arrest Warrant	<p>Citation – Citizen requests Ticket – Law Enforcement issues Arrest Warrant – (1) Law Enforcement requests, (2) County Magistrate issues (if probable cause exists); and (3) Law Enforcement serves and arrests defendant</p> <p><i>Note: See additional comments in “Warrant Approval” section</i></p>
2	Bond - Initial (within 24 hours of arrest)	<p>Magistrate sets if individual is flight risk or danger to community (amount is at magistrate’s discretion)</p> <p><i>Note: Magistrates cannot set bond for certain charges, including murder (for those, Circuit Court judge must set bond).</i></p>
3	<p>Preliminary Hearing*</p> <p><i>*During the hearing the law enforcement officer testifies and Defendant asks questions of the officers to review whether probable cause existed to charge the defendant. Magistrate holding is not determinative (i.e., even if Magistrate finds no probable cause existed, Solicitor may still indict defendant).</i></p>	<p>Defendant requests within ten days of arrest and Magistrate schedules (no requirement that a defendant request a hearing and if no request, no hearing).</p> <p><i>Note: Once a case is indicted (which requires the grand jury to find that probable cause exists that the defendant committed the crime for which the indictment is sought), a defendant is not entitled to a preliminary hearing.</i></p>
4	<p>Bond Hearing*</p> <p><i>*Setting for those charges for which only the Circuit Court can set bond or reconsideration/revocation of a bond set by a Magistrate or by another Circuit judge</i></p>	<p>Defendant or Solicitor requests hearing Solicitor schedules hearing Circuit Court judge decides at hearing</p>

Typical Actions in Adult Criminal Cases (except Capital Murder)

Where the AG takes over is different for each case and dependent upon when the Solicitor determines there is a conflict

NOTE: S.C. Supreme Court determined hearings should be scheduled in the way decided by a judge in furtherance of State v. Langford. Therefore, Solicitor/AG no longer schedule hearings, unless a particular judge has granted court time and instructed them to do it.

Step	Actions Required to Move Case Forward ²	Entity Responsible for the Action
5	Indictment	Solicitor schedules Grand Jury dates Solicitor submits indictments to Grand Jury <i>NOTE: Solicitor do not examine witnesses before the county Grand Juries and are not present during their deliberations or voting</i>
6	First Appearance* <i>*Solicitor provides Defendant discovery, copy of indictment and learns who is serving as attorney for Defendant.</i>	Solicitor schedules
7	Discovery/Pre-Trial Motions <i>* Discovery is an ongoing process, as is the conduct of pre-trial motion hearings</i>	Solicitor & Defense Attorney conduct discovery (prosecution is entitled to very little discovery) Motion hearings, if needed, set by Solicitor or Circuit Court
8	Appearance/Roll Calls	Solicitor schedules
9	Status Conference	Solicitor or Circuit Court judge schedules
10	Plea Negotiations (if any)	Solicitor & Defense Attorney conduct
11	Plea Hearing	Solicitor schedules hearing
12	Jury Trial	Process of scheduling trials varies from county to county <i>Note: In a few counties, the Chief Administrative Judge schedules trials, in some counties scheduling is a joint effort by the judges and the Solicitor, and in some counties the judge leaves the scheduling of trials to the Solicitors.</i>

Who determines if there is a conflict?

Solicitors are responsible for determining if a conflict exists.

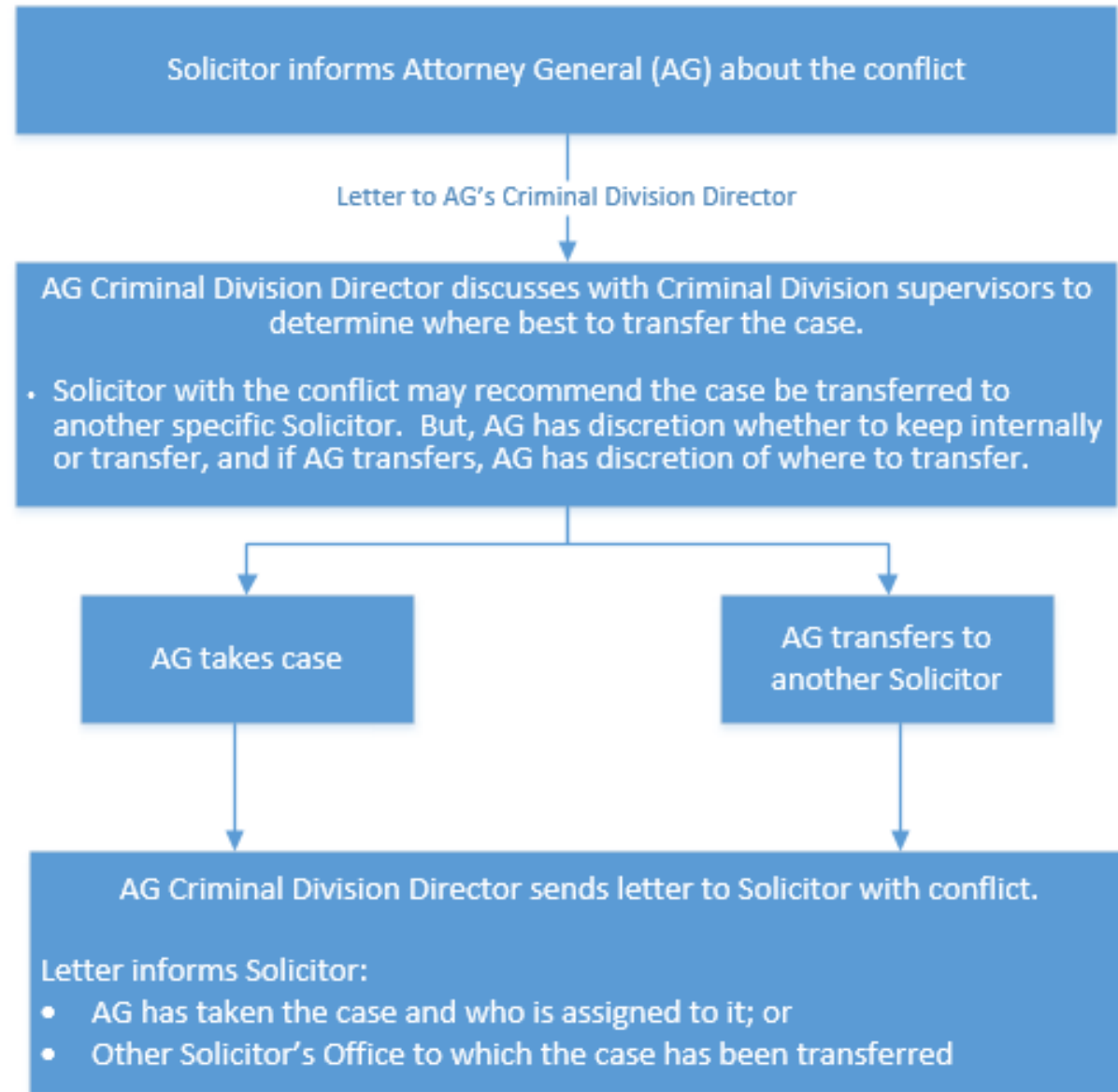
Examples of conditions in which a conflict exists include:

- Party Conflict: Solicitor prosecuting a defendant and representing a victim, then the victim later commits a crime. Solicitor cannot then prosecute the victim, unless they are large enough to create ethical wall.
- Law Enforcement or Asst. Solicitor: Charge against a law enforcement officer that regularly works with the Solicitor's Office or assistant solicitor that works in the office.

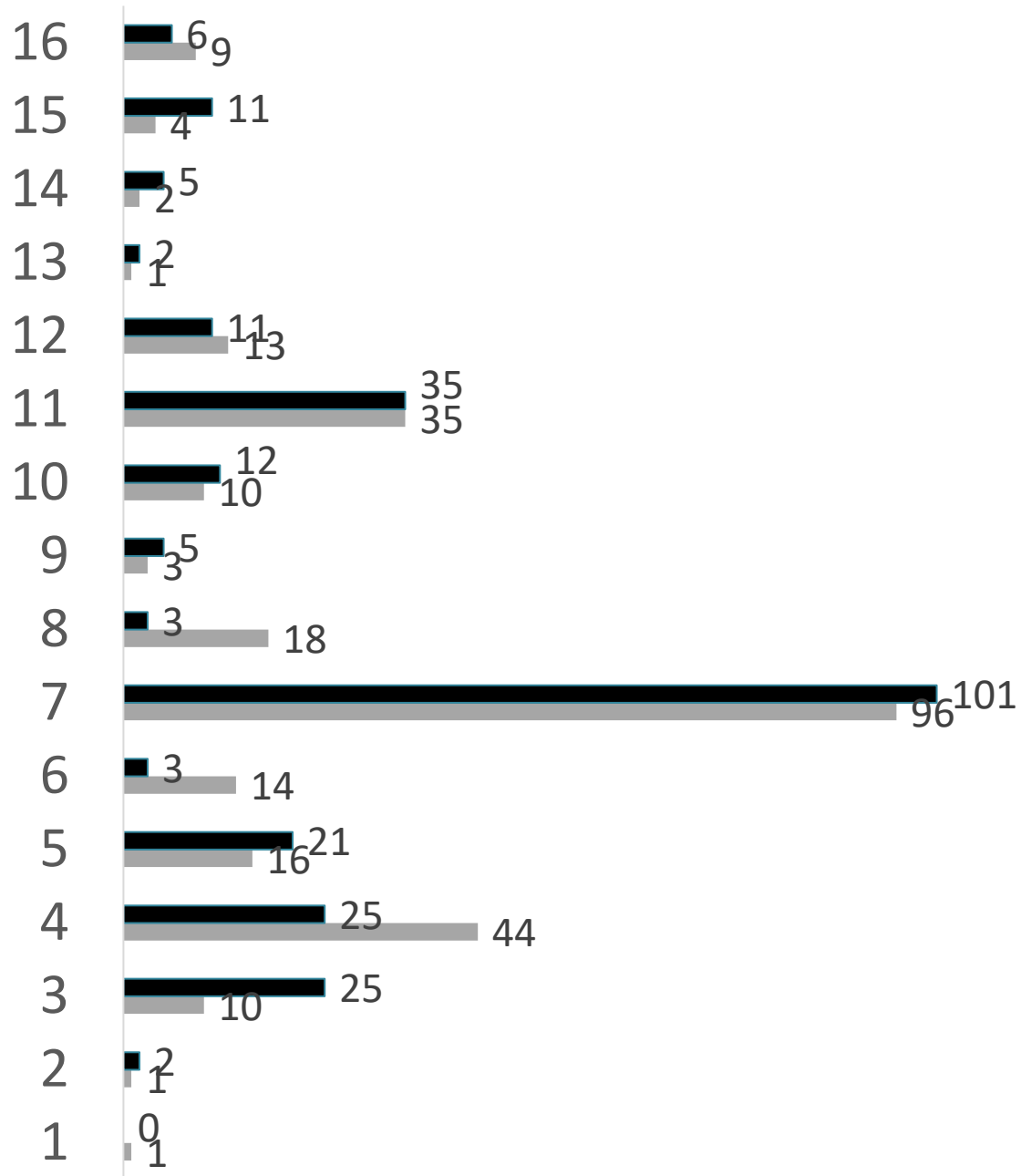
NOTE: Solicitor CANNOT transfer to another Solicitor without Attorney General approval (1-7-350)

- If this occurs, a defense attorney could argue the Solicitor to whom the case was transferred did not have authority to prosecute. It is unclear how a court would rule as the issue has never been argued to a court.

What is the process when one exists?



Circuit (Black is 2020, Gray is 2021)



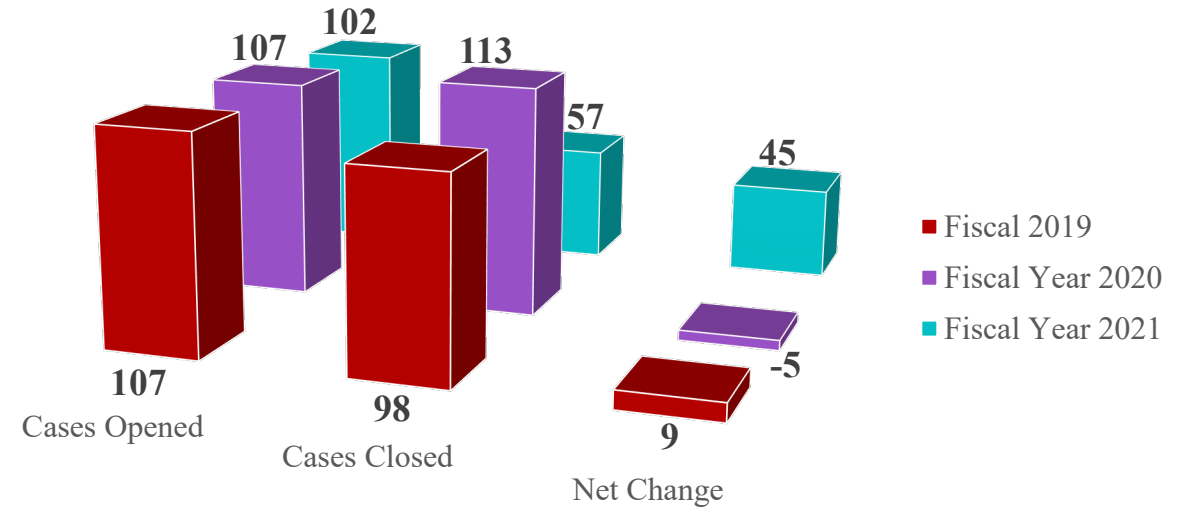
2020 and 2021 Referrals by Circuit



- 7th Circuit – 101 (96)
 - 197 referrals in last 2 years
- 11th Circuit – 35 (35)
 - 70 referrals in last 2 years
- 3rd and 4th Circuit
 - 25 (4th down from 44)
- 11th Circuit
 - 35

General Prosecution per request of Circuit Solicitors

- Prosecute/evaluate the prosecution of individuals charged or possibly charged with general crimes ranging to murder, as requested by Solicitors.
- Note: One case means one defendant (This differs from how the court defines the term “case”)



*Beginning FY 2021, cumulative net -21 (partial shutdown).
 End FY after COVID shutdown cumulative net +25.
 FY - May: +31 net cases, June +45

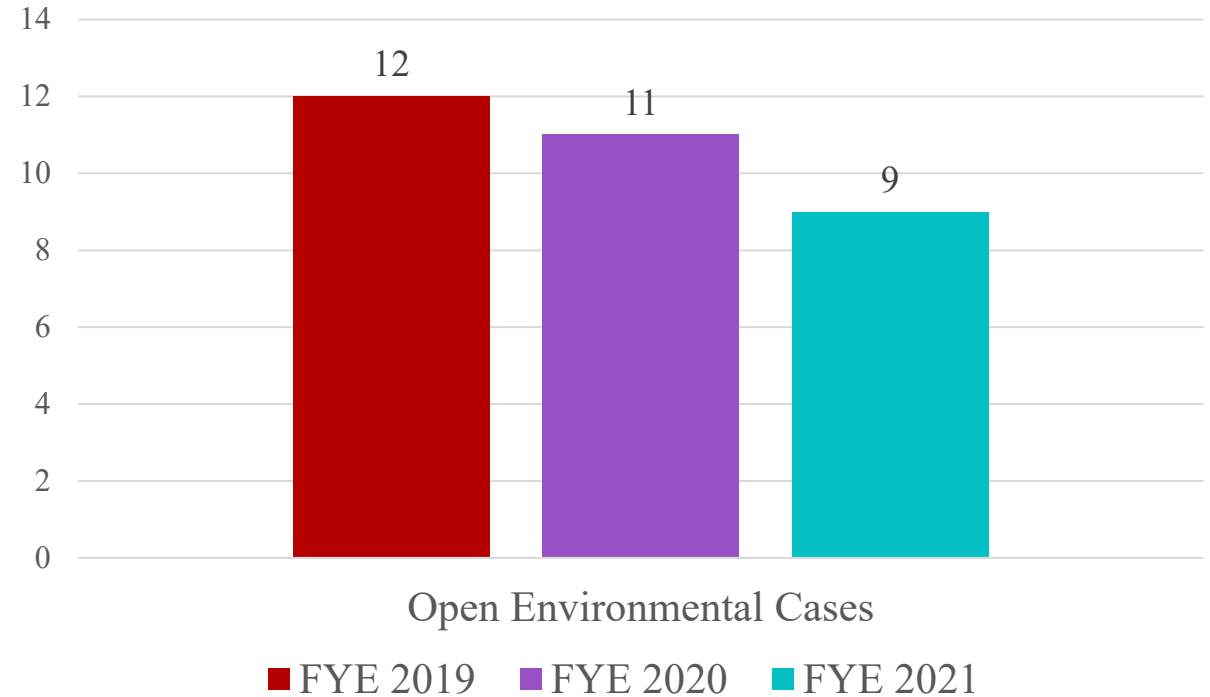
Agency Service #168: General prosecution per request of Circuit Solicitor

Does law require it: Yes
Assoc. Law(s): State Constitution, Art. V, Sec. 24- The Attorney General shall be the chief prosecuting officer of the State

Single Unit: Cases closed/prosecuted for general crimes	Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs	
2016-17	Not provided	\$2,326.03	6.70	\$981,059.91	5.00%	
2017-18	Not provided	Insufficient data	6.70	\$737,265.50	1.24%	
Note: Attorneys in this section rarely work 37.5 hours and often work more hours.	2018-19	98.00	\$7,251.36	6.70	\$710,633.59	1.06%
	2019-20	113.00	\$6,815.84	5.95	\$770,189.69	1.00%

Prosecute Environmental Crimes

- Prosecute/evaluate prosecution of individuals charged or possibly charged with environmental crimes pursuant to a relationship by statute with the Department of Health and Environmental Control (DHEC).
 - Examples - Tire dumping; sewer/water contamination
 - Higher level crimes than DNR prosecutes (magistrate level), but lower than those that meet the state grand jury or federal threshold
- Continuing transition of a dedicated prosecutor (currently Megan Burchstead and Eric Guimaraes)
- Source of cases: DHEC and DNR



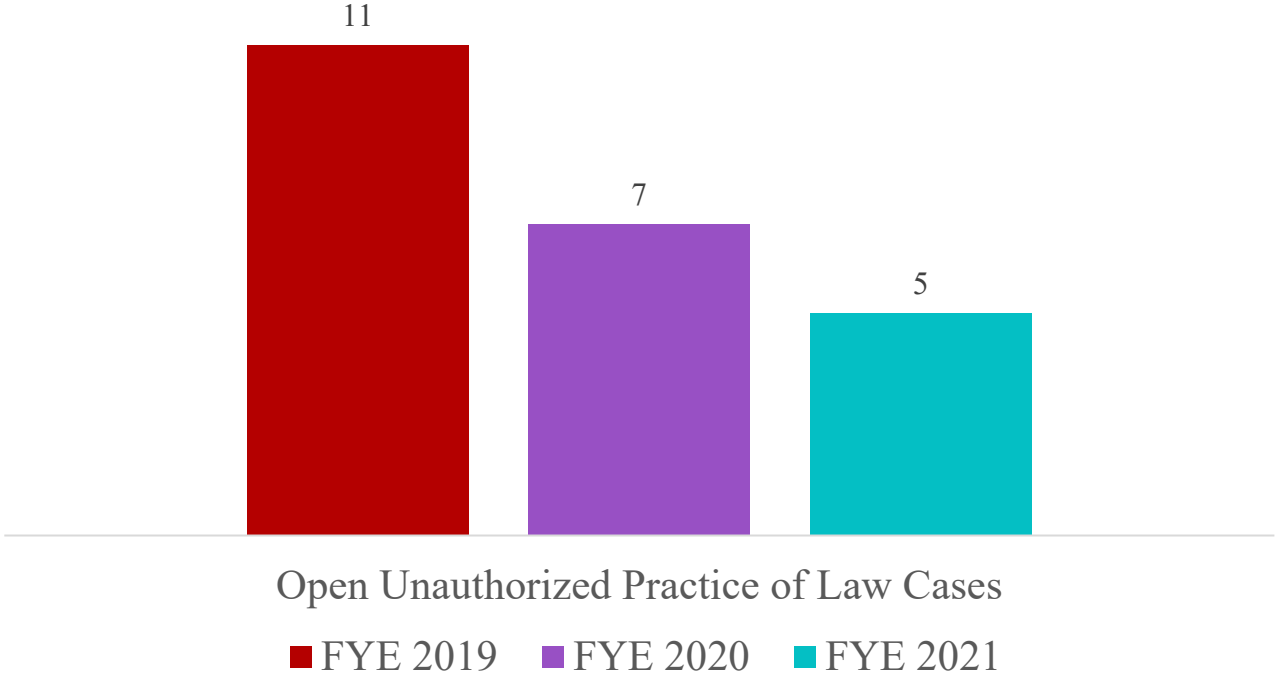
Agency Service #175: Prosecute Environmental Crimes

Does law require it: Yes
 Assoc. Law(s): 48-1-210; SGJ 14-7-1630 A 12 (substantial harm to water, air, soil, land; 2M)

Customers:	Single Unit:		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
DHEC General Public	Cases closed/prosecuted for Environmental crimes	2016-17	11.00	\$2,326.03	0.15	\$4,408.85	0.02%
		2017-18	17.00	\$1,741.50	0.15	\$29,605.58	0.05%
		2018-19	3.00	\$9,868.63	0.15	\$29,605.88	0.04%
		2019-20	2.00	\$4,262.41	0.15	\$8,524.81	0.01%

Prosecute Unauthorized Practice of Law Cases

- Prosecute/evaluate prosecution of individuals charged or possibly charged with Unauthorized Practice of Law.
 - Example – Accountants providing legal advice; advice from non-attorney on real estate transaction or immigration matter
- Source of cases: Judiciary and S.C. Bar
- Working to clarify AG’s role.
 - AG previously had funding from a federal grant to prosecute these cases, but no longer receives funding.
 - Currently handling if it is a conflict case or multi-county case



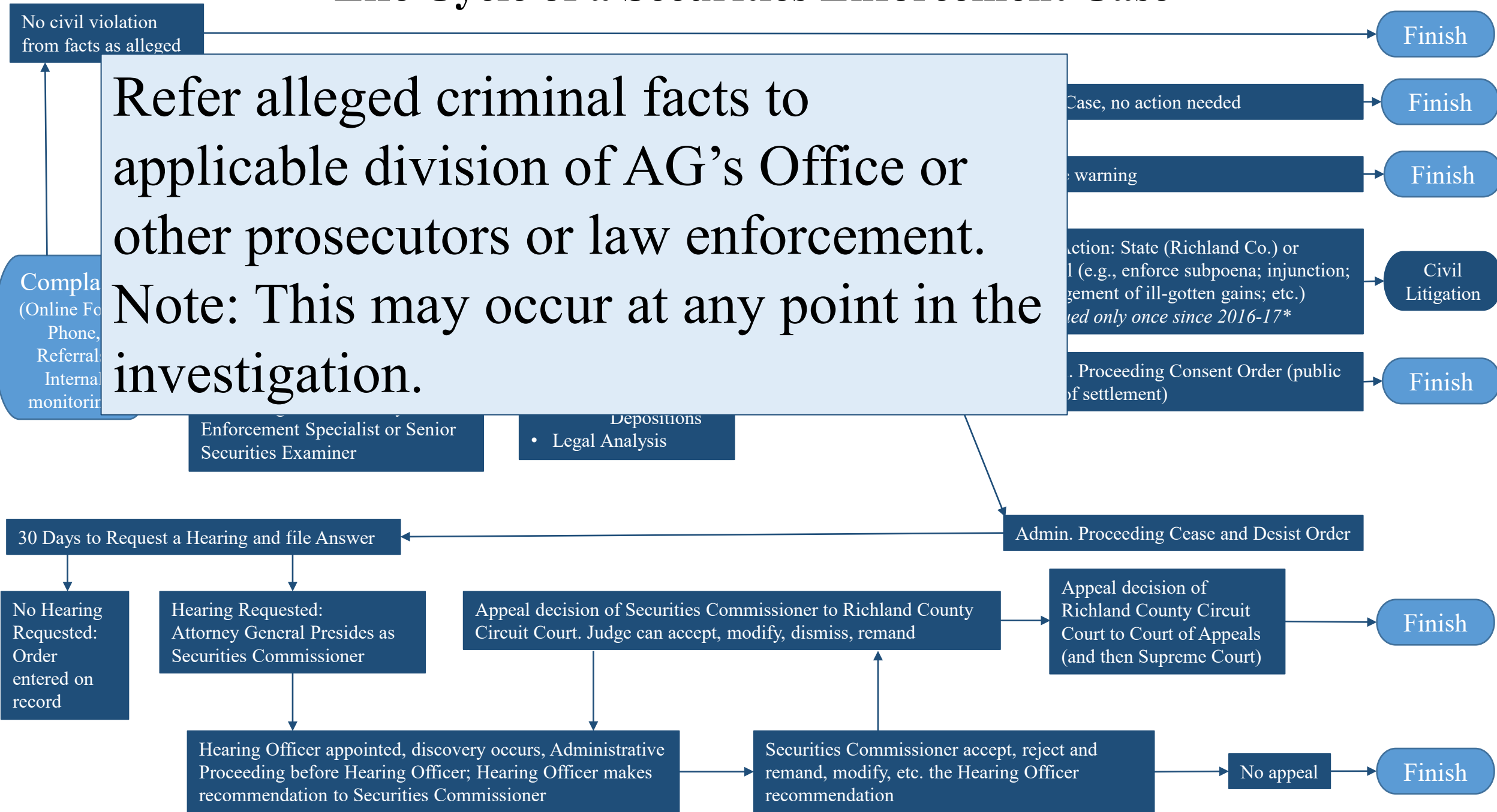
Cases above are active general sessions case (does not include cease and desist letters)

Agency Service #176: Prosecute Unauthorized Practice of Law Cases

Does law require it: No
 Assoc. Law(s): Agreement with SC Bar; SC Code 40-5-310

Customers:	Single Unit:		Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
S.C. Bar General Public	Cases closed/prosecuted for UPL (to include cease and desist letters)	2016-17	2.00	\$2,326.03	0.15	\$10,169.25	0.05%
		2017-18	0.00	Insufficient data	0.15	\$4,500.00	0.01%
		2018-19	16.00	\$281.25	0.15	\$4,500.00	0.01%
		2019-20	4.00	\$2,445.70	0.10	\$9,782.81	0.01%

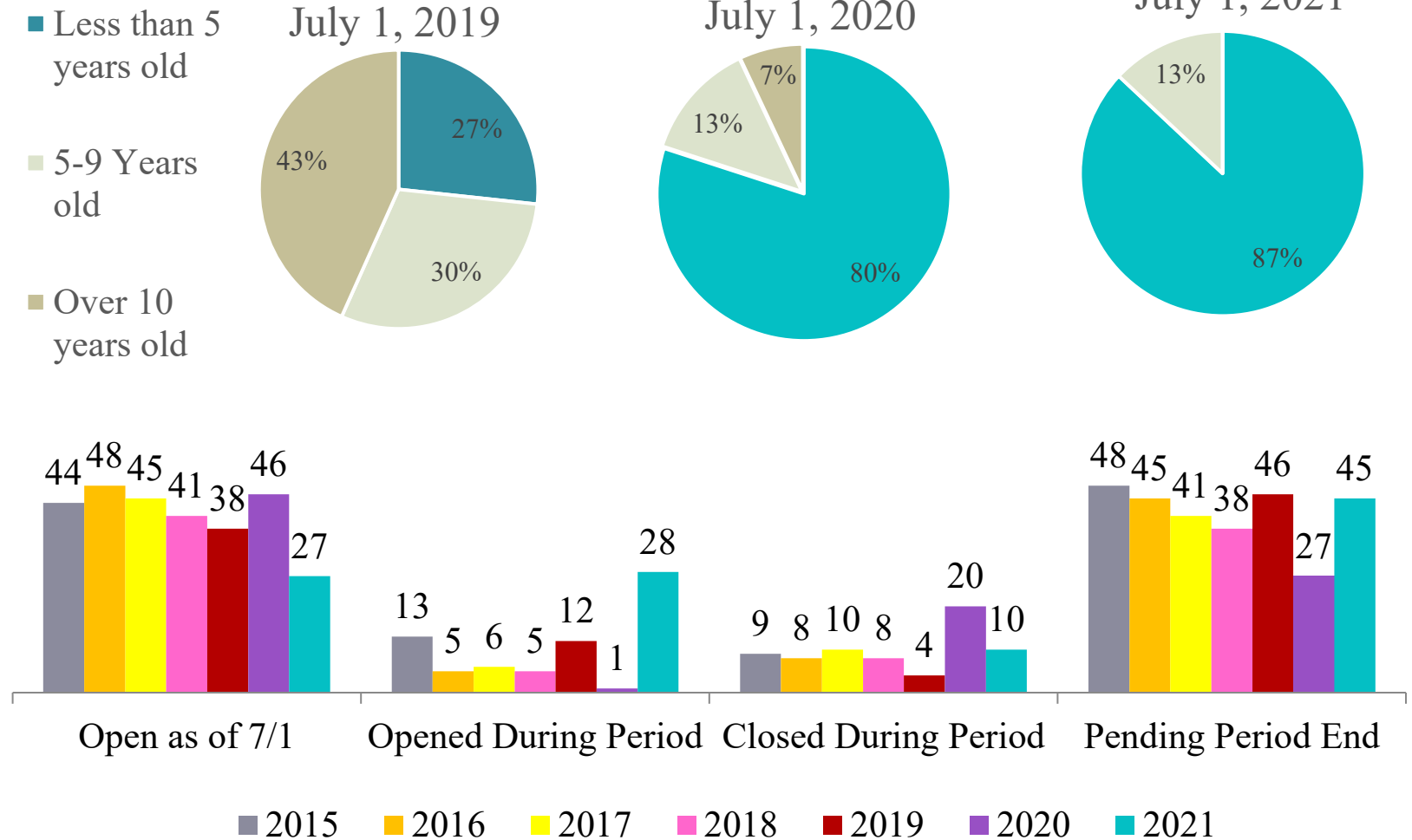
Life Cycle of a Securities Enforcement Case



Prosecute Securities Fraud, Special White Collar

Age of Cases

- Prosecute/evaluate prosecution of individuals charged or possibly charged with Securities Fraud crimes.
- Types of Cases: Securities, computer crime, identity theft, embezzlement, breach of trust, false pretenses, economic pandemic, and similar. FYE 21 combines Securities with Special White Collar cases.
- Source: Referrals from AG's Securities Civil Enforcement Section



Agency Service #174: Prosecute Securities Fraud

Does law require it: Yes

Assoc. Law(s): Uniform Securities Act Chapter 1, Title 35 b (Code 53-1-101 et. seq.)

Single Unit:	Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
Cases closed/prosecuted for securities crimes	2016-17	\$2,326.03	1.30	\$89,138.14	0.45%
	2017-18	\$8,545.18	1.30	\$68,361.47	0.11%
	2018-19	\$7,595.72	1.30	\$68,361.47	0.10%
	2019-20	\$8,460.32	1.30	\$169,206.39	0.22%

Insurance Fraud Prosecution: Types of Cases

- 1 Health/Medical
- 2 Workers' Compensation
- 3 Personal/Commercial property
- 4 Auto Insurance
- 5 Life Insurance
- 6 Premium Fraud
- 7 Disability Insurance
- 8 Unemployment Insurance
- 9 Other

Insurance Fraud Prosecution: History in S.C.

- S.C. was last in the nation in funding prosecution of insurance fraud prior to this funding
- It was unclear who was lead agency and how investigations and prosecutions would operate
- Attorney General's Office (AG), Department of Insurance (DOI), and State Law Enforcement Division (SLED) discussed how to more efficiently prosecute insurance fraud in the state
- In 2021-2022 budget, the General Assembly provided DOI funding to prosecute insurance fraud.

DOI, AG, and SLED enter a Memorandum of Understanding

- DOI responsibilities include:
 - Utilize existing internal investigators and SLED to investigate
 - Utilize their dedicated prosecutors to prosecute (4 previously worked at AG's office)
- AG responsibilities include:
 - Authorize DOI to prosecute
 - AG has done the same with Department of Natural Resources, Department of Public Safety, and Department of Revenue.
 - If anyone other than a solicitor is a prosecutor, the Attorney General must send a letter to the agency authorizing their attorneys to prosecute cases.
 - Cooperation (sharing historical information);
 - Reviewing and signing draft indictments so they can be presented to county grand jury for approval.

Indictment Process for Insurance Fraud Prosecution

Arrest Warrant, then Indictment

DOI, in conjunction with SLED, directs investigation

SLED requests arrest warrant from County Magistrate

SLED makes arrest

DOI prosecutor provides draft indictment to AG to review;
AG reviews and signs off

SLED present draft indictment
to County Grand Jury Jurors

County Grand Jury Jurors
vote on whether to indict

*Indictment Format: One Indictment
includes one charge (i.e., one crime
charged against one person)*

Direct Presentment/Indictment (skip arrest warrant)

DOI, in conjunction with SLED, directs investigation

DOI prosecutor provides draft indictment to AG to review;
AG reviews and signs off

SLED present draft indictment
to County Grand Jury Jurors

County Grand Jury Jurors
vote on whether to indict

*Indictment Format: One Indictment
includes one charge (i.e., one crime
charged against one person)*

SLED serves indictment and
makes arrest

*Note: Don't need separate arrest
warrant if you have an indictment)*

AG = Attorney General's Office

DOI = Department of Insurance

SLED = State Law Enforcement Division

Receive and Process Insurance Fraud Complaints

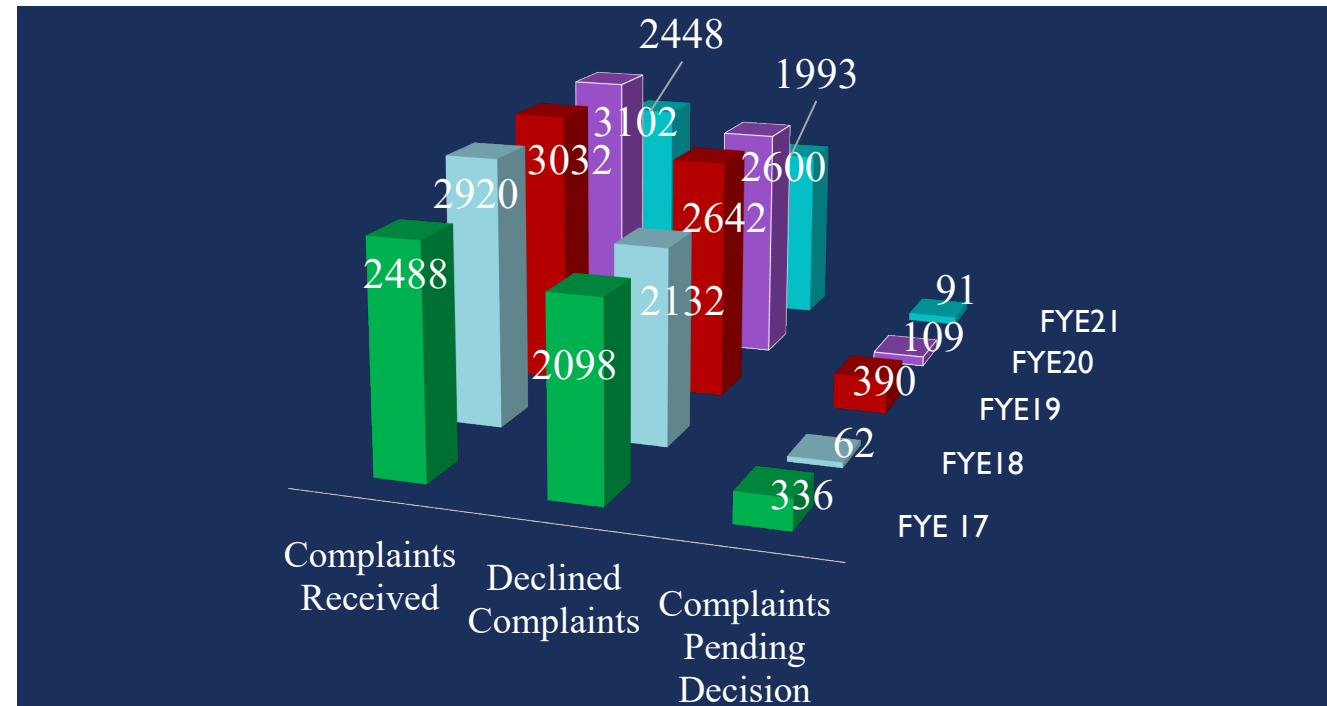
These slides discuss how the AG's office previously handled this matters.

Sources of cases:

- National Insurance Crime Bureau (NICB)
- Local complaints to law enforcement
 - S.C. has a mandatory reporting act that states "...any person, insurer or authorized agency having reason to believe that another has made a false statement or misrepresentation... notify the Insurance Fraud Division of the Office of the Attorney General..."

The Insurance Fraud Division, in conjunction with the Professional Insurance Agents of S.C. and the S.C. Insurance News Service, established the Insurance Fraud Hotline, available 24 hours a day.

- Department of Insurance is now lead for the hotline



■ FYE 17 ■ FYE18 ■ FYE19 ■ FYE20 ■ FYE21

Agency Service #169: Receive and process insurance fraud complaints

Does law require it: Yes

Assoc. Law(s): SC Code 38-55-560 (A)(B)(1); 38-55-570 (A)

		Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
Single Unit:	2016-17	2,488.00	\$2,326.03	2.35	\$128,405.06	0.65%
Referrals of possible fraud received	2017-18	2,920.00	\$34.84	2.35	\$101,738.04	0.17%
	2018-19	3,032.00	\$33.55	2.35	\$101,738.04	0.15%
	2019-20	1,849.00	\$105.00	2.75	\$194,137.73	0.25%

Legal Services Division 

Securities

Registration

Enforcement

Investor Education and Outreach

Money Services

Tobacco

Civil

Consumer

Nonprofit Dissolution

Criminal Division 

Post Adjudication

Capital & Collateral Litigation

Criminal Appeals

Post Conviction Relief

Sexually Violent Predator

General Prosecution

Securities/White Collar

Insurance Fraud Division

Solicitor Referrals

Internet Crimes Against Children

Crime Victim Services Division 

Crime Victim Assistance Grants

Crime Victims Grants Help Desk


Crime Victim Compensation

Crime Victim Ombudsman

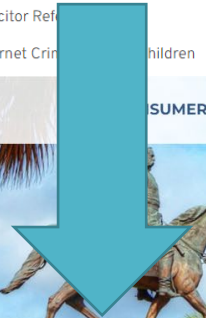
Crime Victim Services Training, Provider Certification and Statistical Analysis

Training Opportunities in 2022

Victim Advocacy Division 

Administration Division 

Link on the Attorney General website...



...goes directly to the Department of Insurance website



Meet the Director

Administrative Services 

Bulletins & Orders

Captives

Division Contacts

Government and Industry Resources

Insurance Fraud Division

Legal 

Public Information & Media 

Home > About Us > Insurance Fraud Division

Insurance Fraud Division

Stop Insurance Fraud!

If you suspect insurance fraud, you can help stop it. Insurance fraud is not a victimless crime. The average family pays up to an extra \$700 a year in premiums to cover the costs of fraud. In South Carolina, insurance fraud is a felony so do your part to learn what it is and how to spot it!

What Is Insurance Fraud?

Insurance fraud occurs when an insurance company, agent, adjuster, or consumer commits a deliberate deception to obtain an illegitimate gain. It can occur during the process of buying, using, selling, or underwriting insurance. Insurance fraud may fall into different categories from individuals committing fraud against consumers, to individuals committing fraud against insurance companies. Both have serious repercussions and consequences.

Need to Report Suspected Insurance Fraud?

Access the [Insurance Fraud Complaint Online Form](#) and submit your complaint today.



Report Fraud:

Click [here](#) to report suspected insurance fraud.

Or you can download and fill out the [Insurance Fraud Complaint](#) form. Save the form and email it to FraudDivision@doi.sc.gov or print and mail to SCDOI P.O. Box 1000105 Columbia, SC 29202

Phone: 888-953-7283

Helpful Links:

- [Coalition Against Insurance Fraud](#)
- [National Insurance Crime Bureau](#)
- [2020 Insurance Fraud Report](#)

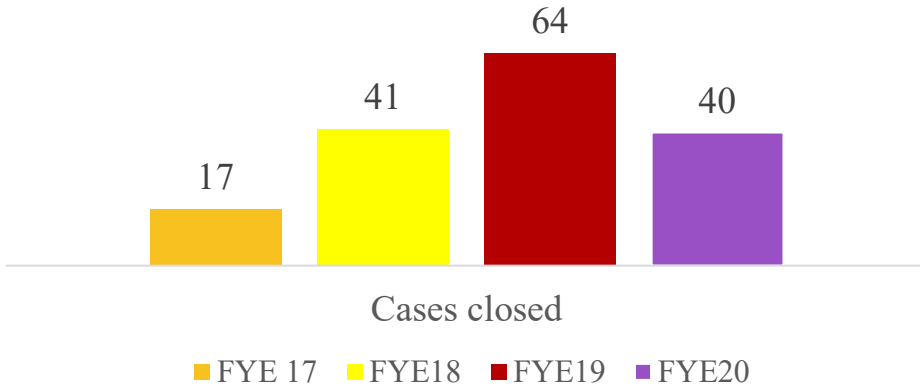
Latest News:

- Press Release: [SCDOI Brings Insurance Fraud Division to Department.](#)

Prosecute Insurance Fraud

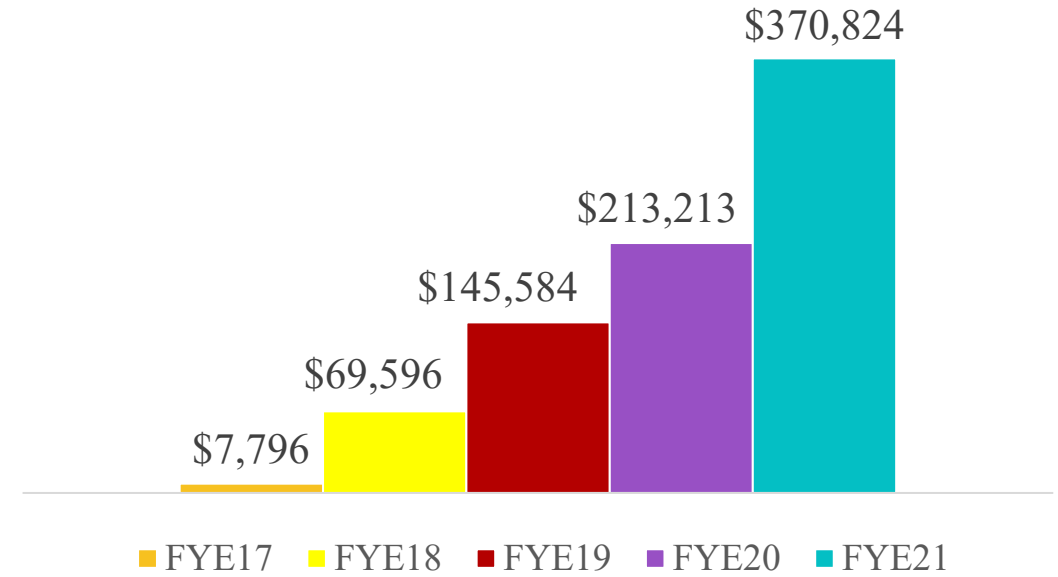
Prosecute/evaluate prosecution of individuals charged or possibly charged with Insurance Fraud crimes.

- DOI is now prosecuting



Fines, Fees, or Restitution

Restitution Ordered



Agency Service #170: Prosecute insurance fraud

Does law require it: Yes

Assoc. Law(s): SC Code 38-55-560(B)(2), (3); 38-55-570

		Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
Single Unit:						
Cases closed of	2016-17	17.00	\$2,326.03	1.80	\$108,117.18	0.55%
Individuals prosecuted for Insurance Fraud	2017-18	41.00	\$2,183.93	1.80	\$89,541.09	0.15%
	2018-19	64.00	\$1,399.08	2.05	\$89,541.09	0.13%
	2019-20	40.00	\$3,769.33	1.85	\$150,773.15	0.20%

Agency Service #171: Collection of insurance fraud fines/fees, restitution

Does law require it: Yes

Assoc. Law(s): SC Code 38-55-540

		Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
Single Unit:						
Fines collected in relation to prosecution of Insurance Fraud	2016-17	7,796.00	\$2,326.03	0.05	\$24,304.57	0.12%
	2017-18	69,596.42	\$0.15	0.05	\$10,432.01	0.02%
	2018-19	145,583.59	\$0.07	0.25	\$10,432.01	0.02%
	2019-20	223,783.50	\$0.10	0.30	\$22,050.73	0.03%

Annual Report

- Create and submit annual report on insurance fraud to the General Assembly.
 - Statute does not outline information that must be included. Currently, annual report includes statistics by calendar year,
- AG published the annual report from 2003 to 2020
 - DOI published the report with statistics from 2021 and will publish the report going forward

Insurance Fraud Training and Outreach

- Increase awareness and understanding related to insurance fraud and evidence of insurance fraud, with law enforcement and the community in general.
- Coordinating outreach activities and training with insurance companies and NICB
- Note: Department of Insurance took the lead on these activities starting in 2021

Agency Service #172: Create and submit annual insurance fraud 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>
Does law require it: Yes Assoc. Law(s): SC Code 38-55-580 (Annual Report submitted to Legislature)	Single Unit:						
	Annual Report of Insurance Fraud Delivered to Legislature (calendar year)	2016-17	1.00	\$2,326.03	3.33	\$17,609.18	0.09%
		2017-18	1.00	\$10,432.01	3.33	\$10,432.01	0.02%
		2018-19	1.00	\$10,432.01	3.33	\$10,432.01	0.02%
		2019-20	1.00	\$24,846.69	0.40	\$24,846.69	0.03%

Agency Service #173: Insurance fraud training and outreach			<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. Law(s): SC Code 38-55-560	Customers:							
	Law Enforcement; public; insurance fraud community	Single Unit:						
		Education/ presentations	2016-17	3.00	\$2,326.03	0.55	\$29,510.24	0.15%
			2017-18	5.00	\$4,851.58	0.55	\$24,257.91	0.04%
			2018-19	3.00	\$8,085.97	0.55	\$24,257.91	0.04%
		2019-20	1.00	\$16,145.40	0.20	\$16,145.40	0.02%	



Associated Successes and Concerns

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



Successes

General Prosecution

Case Movement

- Backlog caused by Covid-19 complications, but still able to get some cases moved. (Court closed/limited and Grand Jury shutdown)
- Continuing into 2021, a greater increase with indictments, scheduled trials, and other hearings allowing the backlog to move.
- Since July 2021, significant case movement and trials set.

Securities Fraud

- 93.3% of cases are actively moving
 - Types of Cases: securities, computer crime, identity theft, embezzlement, breach of trust, false pretenses, economic pandemic, and similar
- The remaining 6.7% are waiting for decline memos
- All cases over 10 years old have been resolved
- Prosecutions were successful
- Defendants have received sentences totaling over 100 years
- SCAG has an excellent working relationships with law enforcement agencies that investigate economic crime.



Successes

Insurance Fraud

Prosecution of large Fraud Rings across the State

- Greenville, Sumter, Lee, Florence, Charleston, and Richland Counties
- All ringleaders have been convicted
- Almost \$400,000 in restitution ordered

Transition of Insurance Fraud Unit

- Memorandum of Understanding signed by AG, Department of Insurance (DOI), and SLED to move the unit to the DOI
- \$1.6 million in additional funding given to DOI specifically for Insurance Fraud
- Statewide Press Releases concerning the Insurance Fraud Partnership and Transition



Needs

- Better Case Tracking System for the office
- Facilitate Better Witness Travel and Lodging
- Retention Pay
- Attorney positions

Concerns

Covid-19 Pandemic

- Working on the backlog created by the shutdowns.

Court Run Dockets

- Moving to court run dockets which presents challenges for scheduling pleas and trials and creates conflicting priorities.
- Fine tune internal case tracking to reconcile with Court Administration.