

STATE OF SOUTH CAROLINA
Commission on Prosecution Coordination

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J. STROM THURMOND
SOLICITOR, SECOND JUDICIAL CIRCUIT



P.O. BOX 11561
COLUMBIA, SOUTH CAROLINA 29211-1561
TELEPHONE: (803) 343-0765
FAX: (803) 343-0766

THOMAS E. POPE
REPRESENTATIVE, DISTRICT NO. 47
HOUSE SPEAKER PRO TEMPORE

MARK A. KEEL
CHIEF, STATE LAW ENFORCEMENT DIVISION

LEROY SMITH
DIRECTOR, DEPARTMENT OF PUBLIC SAFETY

GREG HEMBREE
SENATOR, DISTRICT NO. 28
SENATE JUDICIARY COMMITTEE

July 16, 2018

The Honorable Edward R. Tallon, Sr., Chair
Law Enforcement and Criminal Justice Subcommittee
Blatt Building, Room 228
Pendleton Street
Columbia, South Carolina 29201

Dear Chair Tallon,

Set out below are the Commission's responses to the Law Enforcement and Criminal Justice Subcommittee's requests for additional information sent after the June 18, 2018, meeting. We have included the Subcommittee's headings and questions.

STEPS IN PROSECUTION PROCESS

1. Please explain any recommendations the agency has for more efficient and effective ways to analyze cases, including, but not limited to, warrant approval. In the explanation, please provide recommendations for how to introduce and test any recommended methods (e.g., pilot projects in certain circuits and/or counties, etc.).

Many jurisdictions across the country use some form of warrant approval system to ensure that the cases being filed by law enforcement are prosecution-worthy. In many places, this step in the process occurs shortly after arrest, in some places it occurs prior to the issuance of a warrant. This would certainly improve the overall effectiveness of the criminal justice system in South Carolina by filtering out cases that are not supported by the evidence or require further investigation before they can be successfully prosecuted. If this is something the legislature would like to explore, there is a least one Solicitor's Office that would be willing to serve as a pilot program. The most significant issues that would have to be addressed prior to implementation would be:

1. Providing the resources to allow for 24/7 on call review of cases if the goal is to review prior to the issuance of a warrant. In the event the individual being investigated poses an imminent threat to public safety (as will certainly be the case for a number of individuals), any delay in review and arrest that allowed for

- additional crimes to be committed by the suspect would rightly be intolerable to the public.
2. If post-arrest review, there would need to be a process established which would allow for sufficient time for law enforcement to assemble their file and present it to the prosecution after taking the suspect into custody. The process would have to address the procedural considerations involved in the issuance of process by a summary court judge along with a mechanism to allow for the solicitor's decision to be reported back to the court allowing for the warrant to go forward. Questions regarding bond and law enforcement liability for those cases that were rejected by the prosecution would need to be addressed as well.
 3. In either scenario, the review function would have to be established by law as a function of the prosecution so as to allow for prosecutorial immunity to extend to the decision making process of accepting or rejecting a warrant.
 4. Search warrants should be included in the review process. Simple errors in the issuance of these warrants can be catastrophic and a simple mechanism requiring review could avoid many of these problems.

The Commission is currently working on language to submit to the Subcommittee that more particularly addresses the issues present in our State.

UNIFORMITY, COURT DOCKET, AND BACKLOG

2. Please provide a list of activities that are currently uniform in the prosecution of criminal cases in South Carolina including, for each, the entity and mechanism which enforces it (e.g., solicitor 101 training; processing of expungements, etc.).

Activities that are uniform in the prosecution of criminal cases in South Carolina include those required or overseen by SCCPC:

- the general administration of PTI programs (SCCPC has adopted standards and guidelines);
- the entry of data related to applications for and enrollment in diversion programs, the reporting of certain information by the Solicitors to SCCPC on diversion programs, DUI prosecutions, and domestic violence prosecutions; and
- the availability and receipt of training and resource materials for newly-elected Solicitors, new line prosecutors, and new victim/witness advocates.

The SCCPC has no direct control over how Solicitors in each individual Judicial Circuit handle and/or dispose of criminal cases. However, there are specific procedures, requirements, and timing of events in a criminal prosecution that prosecutors and defense attorneys must comply with that are set out either in statutes, court rules, judicial decisions

(i.e., the South Carolina appellate courts and/or the Supreme Court of the United States), and the state and federal constitutions. Some examples follow.

- Rule 5, SCRCrimP, provides for material and information to be disclosed to the defense by the state upon request, and provides for the timing of such disclosure. In addition, *Brady v. Maryland*, 373 U.S. 83 (1963), provides for the mandatory disclosure of exculpatory evidence and information by the prosecution regardless of whether it was requested by the defense. The failure to abide by these rules may entitle the defense to the suppression of the evidence, a dismissal of the charge(s), or the reversal of the conviction(s) on appeal.
- In *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014), the South Carolina Supreme Court set forth a mandatory sentencing procedure before a juvenile may be sentenced to life imprisonment without the possibility of parole. The failure to follow this procedure will result in a resentencing proceeding.
- *Batson v. Kentucky*, 476 U.S. 79 (1986), and subsequent South Carolina appellate decisions establish a three-step procedure for challenging a party's exercise of jury strikes.
- The South Carolina Supreme Court has required the issuance of Case Management Orders in each County, which set out some deadlines and procedures related to the process of a case through the trial court.

3. Please provide a list of activities that are currently not uniform (e.g., who sets court docket, how solicitors report revenues and expenses, etc.) and place an asterisk next to each item SCCPC seeks to make uniform in the future, if any.

Activities that are not currently uniform include the following.

- the specific administration of PTI programs (SCCPC will shortly begin the process of reviewing and evaluating the current PTI standards and guidelines to not only bring them current, but to address issues not previously addressed and either expand them to cover all diversion programs or create separate standards and guidelines for other diversion programs);*
- procedures and processes related to expungements;*
- the setting of trial dockets;* and
- the determination of how "cases" should be counted.*

4. Please provide a list, by county, of the diversion programs available, indicating which the law requires be made available, if any.

A list of diversion programs offered by the Circuit Solicitors' Office is attached as Chart 7.

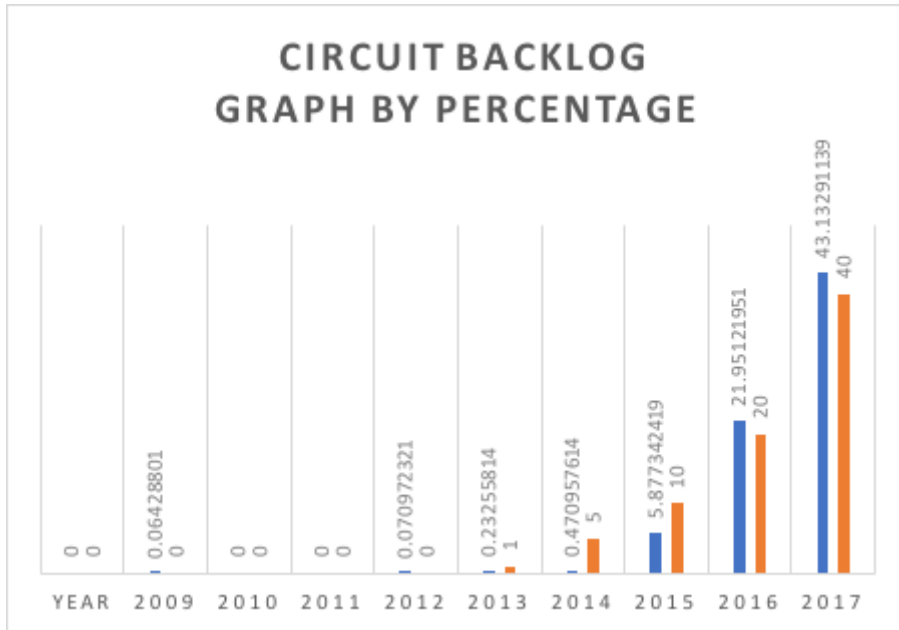
5. Please provide recommendations (i.e., draft statutory language) to address the determination of court dockets.

North Carolina has a docketing statute similar to what was discussed at the June 18 meeting (a copy of N.C. Gen. Stat. Section 7A-49.4 is attached as Attachment A). The Commission is currently working on language to submit to the Subcommittee that more particularly addresses the issues present in our State.

6. During the June 18, 2018 meeting there was testimony that a backlog of cases should not be determined based on the total number of cases on a solicitor’s docket, but the number of cases that have been on the docket for a certain period of time. Accordingly, please provide an appropriate methodology for calculating, by county and circuit, backlog of cases in total or by type of case, and the range, in terms of number of cases, for acceptable and unacceptable backlog.

- a. Backlog is not the same as pending. A Solicitor may have thousands of cases pending that are within months of arrest. These cases should not be considered a backlog.
- b. Backlog should be determined as a percentage of cases that are still pending from previous years once at least six months has passed into the next year.
- c. Generally:
 - i. For each of the previous year we should calculate the number of pending cases and the number of cases that came into the system that year. This is the gross backlog number for that year.
 - ii. These numbers should then be converted to a percentage.
 - iii. A benchmark should then be put in to determine best practices for backlogs statewide.
 - iv. Example:

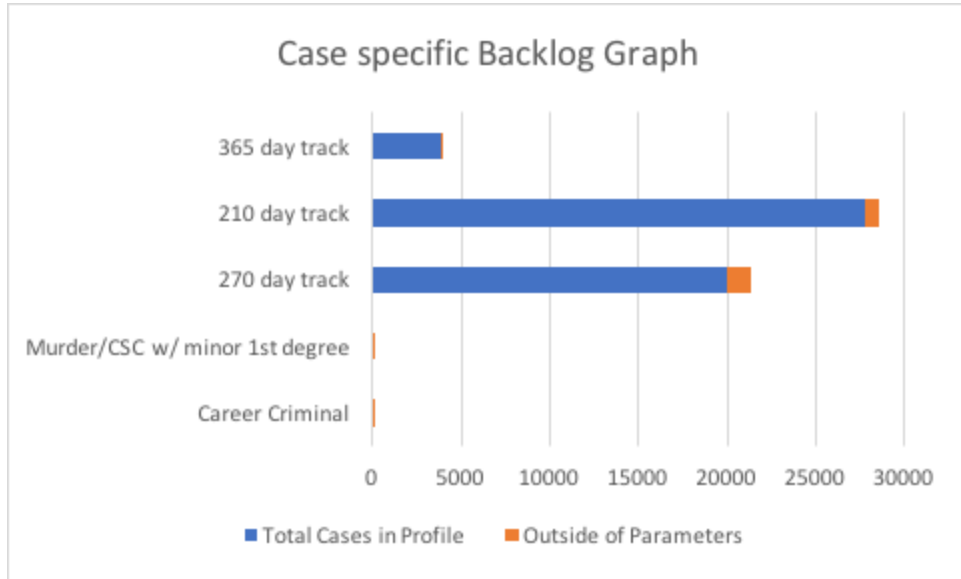
Year	Percentage	Benchmark	Intake	Pending
2009	0.06428801	0	3111	2
2010	0	0	3289	0
2011	0	0	2993	0
2012	0.070972321	0	2818	2
2013	0.23255814	1	2580	6
2014	0.470957614	5	2548	12
2015	5.877342419	10	3522	207
2016	21.95121951	20	3362	738
2017	43.13291139	40	3160	1363



d. Case specific backlog:

- i. Some cases take longer than others to prosecute. Murder or rape cases usually involve scientific testing, gathering of information from multiple agencies and many more pieces of evidence than a DUI case This necessarily takes longer to prepare and therefore to prosecute.
- ii. Cases should be separated by their complexity and then assigned a time table.
- iii. Once the cases have been pending after their assigned timeline has expired, then they are considered backlogged.
- iv. In the following example all cases outside the parameters should be considered backlogged.
- v. Example:

Name	Total Cases in Profile	Outside of Parameters
Career Criminal	39	1
Murder/CSC w/ minor 1st degree	51	6
270 day track	19979	1368
210 day track	27817	700
365 day track	3855	4
Totals	51741	2079



- f. These calculations can be performed by the case management systems of both Matrix Pointe Software (MatrixProsecutor) and Karpel Solutions (Prosecutor by Karpel). These systems can also communicate with each other and with SCCPC once all of the Solicitors have a system and SCCPC has the IT infrastructure to collect and process the information.
- g. This is one way of calculating a backlog, I do not know of any studies that have been conducted that have attempted to establish a best practices policy for this issue. Many factors can affect this other than case complexity such as prosecution, defense, or judicial resources available to address the caseload. Most recently, the addition of bodycams to the law enforcement standard equipment has created thousands of hours of new video that need to be reviewed in every prosecutor's office that did not exist before.

Generally, every Circuit strives to move at least as many cases as come in in a given year. A backlog is the accumulation of cases in excess of those moved year over year.

7. Is it possible to calculate the costs to a jurisdiction and/or the state, associated with backlogged cases, and, if so, how could this be accomplished on a per case or aggregate basis?

SCCPC is unaware of how such costs could be calculated.

8. Please list current actions, if any, and actions SCCPC is planning for the future, if any, to help reduce the current backlog of criminal cases, and maintain a minimal backlog going forward.

- a. Managing the docket and ensuring that backlogs are reduced and maintained low depends entirely on having the appropriate number of prosecutors. SCCPC started this process with the caseload equalization project in 2015. SCCPC studied Court Administration statistics for the number of incoming cases into the General Sessions court every year. These numbers were fairly consistent for the previous three years. The average number of cases coming into the system at that time was just under 115,000. There were 303 General Sessions prosecutors statewide. SCCPC then studied national standards for caseloads for attorneys and determined that South Carolina prosecutors had more than twice times the number of cases that the ABA recommended for public defenders and four times the number of cases prosecuted by attorneys in other states.
- b. SCCPC determined that the goal should be no more than 200 cases per prosecutor. However, as that would have meant a request for funding from the Legislature for over Twenty Million Dollars SCCPC recalculated at 280 cases per prosecutor, requested, and obtained funding for 104 new prosecutors.
- c. As our State's population continues to grow, so will crime. Accordingly, SCCPC should analyze the caseload every three years in order to react to any surge in caseload.
- d. SCCPC should also analyze the percentage of cases handled statewide by public defenders in order to advise the Legislature on the proper number of public defenders.

FINANCES

9. Please provide a list of the following as it relates to SCCPC's finance task force:

a. Questions the task force is seeking to answer;

How to provide a financial best practices framework for the Solicitors to ensure transparency, uniformity, and accountability.

b. Areas the task force is reviewing;

The use of audits.

The use of host county finance personnel.

The necessary checking accounts required by practice and statute.

The use of transparency measures.

c. Entities with whom the task force is communicating; and

All of the entities represented on the Commission have been notified of the task force’s goals and progress. These entities represent Solicitors and their staff, the House of Representatives, the Senate, the Department of Public Safety, and the State Law Enforcement Division.

d. Estimated dates/timeline for completion of each stage of the analysis and publication of recommendations.

The Task Force is gathering information now. We expect to have most of the information by September and expect to begin analysis immediately. SCCPC hopes to receive recommendations from the Task Force by February 2019.

10. Does SCCPC maintain a list of all non-profits or other entities associated with solicitors’ offices, including how those entities are utilized, so the SCCPC can recommend a similar structure if it could be beneficial to other solicitors’ offices not utilizing that structure?

SCCPC has created a list of non-profit corporations created by the Solicitors’ Office for purposes of the operation of the Solicitors’ Offices using information provided by the Solicitors. Only two Circuits have created non-profit corporations for purposes of the Solicitor’s Office.

NON-PROFIT CORPORATIONS CREATED AND USED BY OFFICES OF SOLICITOR		
Circuit	Name of Non-Profit	Purpose/Use of Non-Profit
10	Tenth Circuit Solicitor’s Foundation	This nonprofit corporation is listed on the Secretary of State’s website as a nonprofit incorporated on May 27, 1997 (purpose unknown). We have been informed this nonprofit is not active, and that the Solicitor’s Office will move to dissolve the corporation with the Secretary of State.
14	SOVSC	The Fourteenth Judicial Circuit Solicitor’s Office incorporated SOVSC as a nonprofit in 2017 for the purpose of obtaining a loan and buying a building for the office to occupy.
	Justice Institute	The Fourteenth Judicial Circuit Solicitor’s Office incorporated the Justice Institute as a nonprofit in 2017.

NON-PROFIT CORPORATIONS CREATED AND USED BY OFFICES OF SOLICITOR		
Circuit	Name of Non-Profit	Purpose/Use of Non-Profit
		Its purpose is to develop training programs for prosecutors and law enforcement, as well as potentially partner with colleges to engage with future lawyers, law enforcement officers, and administrative staff.
15	Solicitor's Interventions Programs, LLC 15 th Circuit Drug Enforcement Unit, LLC	The Fifteenth Circuit created Solicitor's Interventions Programs, LLC in 2009 for the purpose of buying the building that currently houses PTI staff. (PTI is intended to be a self-supporting program, and the counties do not provide space or facilities for these employees.) The Office also created 15 th Circuit Drug Enforcement Unit, LLC for its Drug Enforcement Unit. It was formed to buy the building that houses the Circuit's DEU agents. (The counties do not provide space or facilities for these employees.) This LLC was formed in 2014, and the building that was bought though this LLC still serves as the facilities for the Circuit's DEU agents.

DATA

11. Please provide a list of the following:

- a. Types of data court administration collects, which data SCCPC utilizes and how SCCPC utilizes it; and**

The types of data that Court Administration collects are set out in Attachment B (provided by Court Administration). Of this data, SCCPC utilizes information about pending cases, number of cases disposed of, number of cases added, and time between arrest and disposition.

It is important to note that SCCPC does not have direct access to all of this collected information. Some is posted monthly and annually on the Judicial Department's website, but for specific data searches, SCCPC must send a request to Court Administration to obtain the information. SCCPC uses the information obtained from Court Administration for many purposes, including preparing grant reports, reviewing case flow across the State, preparing budgetary requests, and determining training and resource needs of the Solicitors' Offices.

b. Additional data the SCCPC believes is necessary to perform the type of comprehensive analysis the SCCPC seeks to perform, including how SCCPC could see itself utilizing the data.

Court Administration does not collect case level data on criminal cases in Summary Court (just total financial and caseload/number data), and SCCPC believes that knowing the types of criminal cases being prosecuted, the numbers by type, the dispositions by type, and who is appearing for the parties (prosecutor or law enforcement officer for the prosecution, and public defender/contract attorney, private attorney, or a *pro se* defendant for the defense) could be used in a number of different ways, including determining what cases (and how many) are being tried by law enforcement, and determining training and resource needs of those prosecuting the cases.

12. Please list what SCCPC hopes to accomplish through creation of a new website, including, but not limited to, data that may be collected and/or made available through the website.

SCCPC's current website is inadequate and contains minimum information about the Commission and the Solicitors. SCCPC is in the process of working on a Request for Proposal for the creation of a new website, which will include public (accessible by anyone) and private or "password-protected" pages (accessible only by the Solicitors and their staff).

The SCCPC hopes to accomplish several goals through the creation of a new website, including, but not limited to, the following.

- Trainings – information about, and registration and materials for trainings will be able to be included on the new website or accessible through it. In addition, it is anticipated that some educational videos may be uploaded for use by prosecution staff.
- Legal updates – summaries of appellate decisions, rule changes, and legislative enactments, which have historically been emailed to Solicitors and Deputy Solicitors for dissemination in their respective offices, will be available on the restricted access portions of the website to better ensure that all prosecution staff will have ready and immediate access to it.
- Clearinghouse of sample pleadings, research, and other information – it is anticipated that in the restricted access portions of the new website, SCCPC will post sample pleadings (trial memoranda, briefs, motions, etc.), research, alerts, strategic advice, and other information that will enable prosecutors to better and more efficiently prosecute their cases.
- General criminal justice information – on the publicly accessible portion of the website, there will be general information on the State's criminal justice system and process, the different courts, FAQs on the system and process, and contact

information and links to other components in the system (SCCID, Court Administration, SCDC, SCDJJ, SCPPP, etc.).

- Commission & Solicitor information – a portion of the website will provide information to the public on current Commission members, SCCPC staff, and the Solicitors' Offices.
- John R. Justice Grant – SCCPC administers the John R. Justice Loan Repayment grant for prosecutors and public defenders. Part of SCCPC's responsibility is to distribute information and application forms. These will be available online through the new website.

In addition, information as to other student loan debt relief could be shared with prosecutors on the website.

- Publicly-available reports – SCCPC collects statistical information on domestic violence cases, driving under the influence cases, and diversion programs. These reports are currently submitted by the 16 circuit solicitors via fax or email, but will be submitted electronically through the website. Additionally, it is hoped that the electronic submission on the new website will allow for easier generation of statutorily-required reports that will be posted on the website to allow for easy access by the public and Solicitors' Offices.
- Non-public reports – it is hoped that the new website the website will allow for the submission of non-public information and statistical information that will be beneficial to SCCPC.

13. For data and reports SCCPC collects for the General Assembly, does SCCPC send this information to the Legislative Services Agency (LSA) for publication on the legislature website, pursuant to S.C. Code of Laws Section 2-1-230?

In addition to the reports that all state agencies must prepare and submit, SCCPC is required – by statute or proviso – to prepare and submit four reports. They are:

1. a report on the Solicitors' diversion programs required by S.C. Code Section 17-22-1120, which the statute requires to be submitted to the Sentencing Reform Oversight Committee;
2. domestic violence prosecution data report, required by Proviso 60.7, 2017-18 S.C. Appropriations Act, Part 1B, which is to be submitted to the General Assembly;
3. driving under the influence prosecution data report, required by Proviso 60.9, 2017-18 S.C. Appropriations Act, Part 1B, which is to be submitted to the General Assembly; and
4. driving under the influence prosecution data report, required by Proviso 117.109, 2017-18 S.C. Appropriations Act, Part 1B, which is to be submitted to the Chair of

the House Ways and Means Committee and the Chair of the Senate Finance Committee.

SCCPC was unaware of the provisions of S.C. Code Section 2-1-230 and has not previously transmitted its reports electronically to the Legislative Services Agency (LSA) and to the State Library as provided in Section 60-2-30 (instead, hard copies were hand delivered and electronic copies also normally emailed to staff). Beginning this year, SCCPC will begin complying with this statutory requirement.

14. Does court administration, SCCPC, and S.C. Commission on Indigent Defense, utilize a uniform definition of the term “case” for purposes of calculating cases by county and circuit, caseloads, etc.? If yes, what is the definition, and is it in statute or regulation? If no, what definition would SCCPC propose?

No. SCCPC proposes that cases should be calculated as events. This would be consistent with the way that law enforcement calculates cases.

Example: Assume that a defendant breaks into a home, steals stereo equipment and assaults the homeowner. Later that same day the defendant travels across town and breaks into another home, steals some more stereo equipment and assaults another homeowner. The defendant is charged with burglary, larceny and assault for the first break in. He is also charged with burglary, larceny and assault for the second break in. Court Administration counts this situation as six different cases. Law enforcement considers these two separate events and assigns two case numbers. This is the way that cases should be defined for the purpose of calculating prosecution numbers.

15. In regard to having all solicitors’ offices and law enforcement entities utilize a cloud-based system for evidence, please provide a list of pros and cons, including potential financial implications, for everyone involved (e.g., law enforcement entities, solicitors’ offices, court administration, individual defendants, etc.).

a. Pros of using cloud based evidence storage:

1. Efficiency: Utilizing a cloud based evidence storage platform provides a quicker method of information dissemination (sending an email link to someone for them to access the data is much more efficient than putting a copy on a DVD and mailing or delivering it to another person). A single link can be shared many times.

Example: The “old” way is to receive a copy of a DVD (which might be misplaced, damaged, stolen, might require special software to view, etc.) and then transferring that data by making copies of the DVD for distribution by mail or by hand (is laborious and time consuming). With cloud based storage, a particular file can be shared with the appropriate parties via an email link that requires authentication to view.

2. Security and accountability: The data transfer in the cloud is encrypted, and the platform on which the data is residing is encrypted. The person who accesses the data must have (a) email access and (b) the password that has been set up by the email address user. The platform records both the email address and IP address of the person accessing the data. A log of who accesses the data is maintained. The data transfer in the cloud is encrypted, and the platform on which the data is residing is encrypted.
3. Protection against tampering of evidence: Versioning occurs when the original component is changed, and it also records by whom the change has taken place. Versioning acts as a form of backup of the original dataset.
4. Accessibility: The data is readily accessible from multiple platforms so long as one has the ability to remotely access into the data store.
5. Cost: The amount of money saved in expediting the transfer of data is immense. For instance, the value of the amount of time a lawyer spends dealing with sharing or transferring DVD data (finding the data, copying it, mailing or delivering it, and driving back one time) would pay for the software of 20 people for a month. Example: Imagine five lawyers having the ability to move data around securely through the internet per month: three data transfers each in a month (cloud based storage takes less than five minutes to transfer each time, as compared to transferring information via a DVD – for which the lawyer must find data, copy DVD, meet with person or get package mailed with signature security at extra expense – which takes between 30 minutes to an hour each and that’s not even delivering the data). Money and time is saved with cloud based evidence storage and sharing.
6. Redundancy: Once in the system data will not be lost or misplaced.

b. Cons of using cloud based evidence storage

1. Security: Similar scenarios exist whether the data is physical or not. Example: someone downloads the file locally and their laptop is stolen and hacked, or the laptop is taken by someone who has phished the credentials of the laptop owner.
2. Upload and download times for large files: If the file is extremely large and the upload speed is minimal, it takes a long time to transfer data.
3. Ex-employees: This is for both DVD or cloud based. Ex-employees should have access to data removed at the time of dismissal (requires removing access to be part of the human resources’ dismissal process).
4. Implementation: Requires supervisors to require 100% adoption within the organization for it to be consistent.

16. For law enforcement and solicitors’ offices without a cloud-based system for evidence, what methods are currently utilized to ensure, and document that each respective entity

has sent and/or received, all the evidence related to a case? What are the pros and cons of these methods?

Much of the evidence today originates in digital format. This includes videos from body cameras, police cars, and public and private surveillance. This also includes incident reports that are typed into computers and photographs taken by digital cameras. Law enforcement agencies that are not utilizing cloud based systems remove the digital content and download it onto computer disks and thumb drives, document what is supposedly on the disks and then drive them to the Solicitor's office where the Solicitor's staff returns it to digital format by uploading it or scanning it into a case management system. Not only is this process inefficient considering the use of computer disks, thumb drives and personnel time but it also prevents a pure audit process that allows the prosecutor, defense attorney and the court to hold law enforcement accountable for providing all relevant material.

The only pros to using a system like this is that law enforcement does not need to be trained to use it.

Attached to this letter are several attachments. There are three documents that are actually labelled attachments:

Attachment A – Response to question 11(a) (information received from South Carolina Court Administration); and

Attachment B – N.C. St. 7A-49-4.

On June 20, we were asked to review charts and graphs created by SCCID covering the South Carolina criminal justice system and prepare our own versions of those applicable to the prosecution of cases. On July 5, we were told by Mr. Appleby that we could submit our versions of the applicable charts and graphs on July 16. We have created versions of several of SCCID's charts and a cover sheet for them. Included are:

Chart 1: types of courts, cases heard and who is responsible for action;

Chart 2: types of violations prosecuted in the criminal trial courts;

Chart 3: actions required to move criminal cases and who responsible for (adult – non-capital cases);

Chart 4: actions required to move criminal cases and who responsible for (capital cases);

Chart 5: actions required to move criminal cases and who responsible for (juveniles – family court).


As was explained to Mr. Charles Appleby in your office today, Chart 6 (flowchart of the South Carolina criminal justice system) was prepared utilizing online software, we have not been able to access it since Sunday, and we will have to recreate it. It is our understanding that we have until Friday morning to submit it.

The Honorable Edward R. Tallon, Sr., Chair
(SCCPC Response to June 22, 2018, Information Request)
July 16, 2018
Page 15

Chart 7 that is attached contains the listing of the diversion programs offered by the Solicitors' Offices by Circuit and County as requested in question 4 of your June 22 letter.

Please let us know if you, any other member of the Subcommittee, or legislative staff have any questions or need further information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amie Clifford". The signature is written in black ink and is positioned above the typed name and title.

Amie L. Clifford
Education Coordinator/Senior Staff Attorney

Attachments

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I. General Sessions

A. For General Sessions, the Clerk of Court transmits data to the Judicial Department at least once a month, although daily transmissions are encouraged. The data is then maintained in the web based County Stats Portal (Portal). The data fields routinely transmitted are: Case Number, Warrant / Ticket Number, File Date, Restore Date, Transfer Date, Arrest Date, Offense Code (CDR), Initial Judge Code / Summary Court Judge Code, Defendant Name, Defendant Address, City, State, Zip Code, Defendant Sex, Defendant Race, Defendant Social Security Number, Defendant Date of Birth, Defendant Driver License State, Defendant Driver's License Number, Defendant's Attorney, Solicitor, Disposition Date, Disposition Code, Conviction Code (CDR), Sentence Literal, Judge Code.

B. Only the South Carolina Law Enforcement Division and the South Carolina Department of Motor Vehicles have data sharing agreements with the South Carolina Judicial Department.

C. The Solicitors and the Attorney General's Office have access to the Portal to review specific case records and run standard reports. The Portal helps reconcile their data with the Clerk of Court's data. The Solicitors and the Attorney General's Office have the ability to run the following reports:

1. General Sessions Self-Audit Report
2. General Sessions Criminal Records Summary of Activity by Circuit/County
3. General Sessions Criminal Records Management Average Age of Pending and Disposed Cases
4. General Sessions Criminal Records Management Age of Pending Cases
5. General Sessions Pending Criminal Cases
6. General Sessions Pending Criminal Cases over 180 days of arrest
7. General Sessions Summary of Criminal Record Dispositions by Type

D. The South Carolina Judicial Department posts monthly reports and annual reports using the data in the Portal. The monthly reports are found at: <https://www.sccourts.org/monthlyReports/> The annual reports are found at: <http://www.sccourts.org/annualReports/>

E. The South Carolina Commission on Prosecution Coordination does not currently have access to the Portal nor has any data sharing agreement with South Carolina Judicial Department and requests for data are authorized by South Carolina Court Administration under [Rule 610, SCACR](#).

II. Family Court

A. For Family Court, the Clerk of Court transmits data to the Judicial Department at least once a month, although daily transmissions are encouraged. The data fields routinely transmitted are: Case Number, File Date, Restore Date, Nature of Action Code, Nature of Action Code Description, Plaintiff, Plaintiff Attorney, Disposition Date, Disposition Code, Disposition Code Description, Judge Code, Defendant, Defendant Attorney, Comments.

B. The Family Court Juvenile data is structured differently than General Sessions' data. No CDR codes are transmitted to the South Carolina Judicial Department, instead Nature of Action Codes are used. For Juvenile cases, the Nature of Action Codes are:

1. Truancy
2. Incurigible
3. Runaway
4. Criminal Offense – Drug
5. Criminal Offense – Against a Person
6. Criminal Offense – Property
7. Criminal Offense – Public Order
8. Criminal Offense – Other
9. Juvenile Delinquency – Other

C. Given the confidentiality of Juvenile cases, the case appears as "STATE VS CONFIDENTIAL" and only the case number is used to identify cases in South Carolina Judicial Department internal reports (e.g., monthly reports reviewed by the Chief Judges for Administrative Purposes).

D. The South Carolina Judicial Department posts monthly reports and annual reports using the data in the Portal. The monthly reports are found at: <https://www.sccourts.org/monthlyReports/> The annual reports are found at: <http://www.sccourts.org/annualReports/>

III. Common Pleas

A. For Common Pleas, the Clerk of Court transmits data to the Judicial Department at least once a month, although daily transmissions are encouraged. The data is then maintained in the web based County Stats Portal. The data fields routinely transmitted are: Case Number, File Date, Restore Date, Nature of Action Code, Nature of Action Code Description, Plaintiff, Plaintiff Attorney, Disposition Date, Disposition Code, Disposition Code Description, Judge Code, Jury / Non Jury, Refer Master in Equity Date, Defendant, Defendant Attorney, Comments.

B. The South Carolina Judicial Department posts monthly reports and annual reports using the data in the Portal. The monthly reports are found at: <https://www.sccourts.org/monthlyReports/> The annual reports are found at: <http://www.sccourts.org/annualReports/>

IV. Summary Court

A. For the Summary Courts, South Carolina Court Administration only collects totals or summary level financial and caseload data, no case level data is routinely collected. The totals or summary level financial and caseload data from each Court are then used to create a Statewide Magistrate and Municipal Court report which is an internal Court Administration document; however, it can and has been provided upon request under [Rule 610, SCACR](#).

B. Court Administration also collects the number of staff members for each Summary Court, whether the staff member is full time or part time, staff salary, and staff email address.

C. For both Magistrate & Municipal Courts, Court Administration collects the total dollar amount of fines and fees collected by each Court for the following categories:

1. Fines Retained by County without assessments
2. \$25.00 Conviction Surcharge
3. \$41.00 Fraudulent Check Administrative Charge
4. 11.16% Victim/Witness Assessment or the 12%
5. 88.84% Assessment or the 88% + 7.5%
6. \$100.00 DUI for DPS Pullout
7. \$100.00 DUS for DPS Pullout
8. \$100.00 / \$150.00 Drug Court Assessment
9. 3% Collection Fee for Installments Payments
10. Bond Estreatments
11. \$12.00 DUI assessment
12. Fines for Game & Fish Violations
13. Fines for Axle & Gross Weight (Size & Weight)
14. Fines for Public Service Commission
15. Fines for Cruelty to Animals (50% to Humane Society)
16. \$50.00 Boating Under Influence BA Test Fee
17. \$25.00 DUI BA Test Fee
18. Insurance Fraud
19. \$25.00 Law Enforcement Funding
20. \$100.00 (DUI) To MUSC Spinal Cord Research
21. \$5.00 Criminal Justice Academy Fee
22. \$150.00 Conditional Discharge Fee
23. General Sessions Fines (44% to State)
24. General Sessions Fine (56% to County)
25. 64.65% Assessment to State
26. 35.35% Assessment to County
27. \$100.00 Conviction Surcharge
28. Magistrate Civil Fees
29. \$10.00 All other Civil Filing Proviso Fees
30. \$25.00 Summons & Complaint Proviso Fee
31. **GRAND TOTAL OF ALL FEES & ASSESSMENTS**

D. For Magistrate Court case totals, the following is collected from each Court:

DISPOSITION REPORT FOR JULY 1, 2014 TO JUNE 30, 2015												
CRIMINAL DOCKET												
DISPOSITIONS TYPE =>	CASES FILED	GUILTY			NOT GUILTY		NOLLE PROSEQUI	TRANSFERRED	OTHER	CONTINUED	TOTAL	PENDING END OF PERIOD
		FORFEITURE	BENCH TRIAL	JURY TRIAL	BENCH TRIAL	JURY TRIAL						
	TOTAL	1	2	3	4	5	6	7	8	9	TOTAL	TOTAL
JULY 1 THROUGH DECEMBER 31, 2014	0	0	0	0	0	0	0	0	0	0	0	0
JANUARY 1 THROUGH JUNE 30, 2015	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0

DUI DOCKET												
DISPOSITIONS TYPE =>	TOTAL	1	2	3	4	5	6	7	8	9	TOTAL	TOTAL
JULY 1 THROUGH DECEMBER 31, 2014	0	0	0	0	0	0	0	0	0	0	0	0
JANUARY 1 THROUGH JUNE 30, 2015	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0

OTHER TRAFFIC DOCKET												
DISPOSITIONS TYPE =>	TOTAL	1	2	3	4	5	6	7	8	9	TOTAL	TOTAL
JULY 1 THROUGH DECEMBER 31, 2014	0	0	0	0	0	0	0	0	0	0	0	0
JANUARY 1 THROUGH JUNE 30, 2015	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0

CIVIL DOCKET														
DISPOSITIONS TYPE =>	CASES FILED	DEFAULT JUDGMENT	SETTLED	FIND FOR PLAINTIFF	FIND FOR DEFENDANT	JUDICIAL DISMISSAL	OTHER						TOTAL	PENDING END OF PERIOD
								1	2	3	4	5		
JULY 1 THROUGH DECEMBER 31, 2014	0	0	0	0	0	0	0						0	0
JANUARY 1 THROUGH JUNE 30, 2015	0	0	0	0	0	0	0						0	0
TOTAL	0	0	0	0	0	0	0						0	0

AGE OF PENDING	JURY TRIALS				NON JURY TRIALS				TOTAL NUMBER OF DISPOSED CASES	
	CRIMINAL	DUI 1ST	TRAFFIC	CIVIL	CRIMINAL	DUI 1ST	TRAFFIC	CIVIL	SUMMONS	LANDLORD / TENANT
AGE IN DAYS										
1 - 30 DAYS OLD	0	0	0	0	0	0	0	0		
31 - 60 DAYS OLD	0	0	0	0	0	0	0	0		
61 - 90 DAYS OLD	0	0	0	0	0	0	0	0		
91 DAYS AND OLDER	0	0	0	0	0	0	0	0		
TOTAL	0	0	0	0	0	0	0	0		

E. For Municipal Court case totals, the following is collected from each Court:

DISPOSITION REPORT FOR JULY 1, 2014 TO JUNE 30, 2015												
CRIMINAL DOCKET												
DISPOSITIONS TYPE =>	CASES FILED	GUILTY			NOT GUILTY		NOLLE PROSEQUI	TRANSFERRED	OTHER	CONTINUED	TOTAL	PENDING END OF PERIOD
		FORFEITURE	BENCH TRIAL	JURY TRIAL	BENCH TRIAL	JURY TRIAL						
	TOTAL	1	2	3	4	5	6	7	8	9	TOTAL	TOTAL
JULY 1 THROUGH DECEMBER 31, 2014	0	0	0	0	0	0	0	0	0	0	0	0
JANUARY 1 THROUGH JUNE 30, 2015	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0

DUI DOCKET												
DISPOSITIONS TYPE =>	TOTAL	1	2	3	4	5	6	7	8	9	TOTAL	TOTAL
JULY 1 THROUGH DECEMBER 31, 2014	0	0	0	0	0	0	0	0	0	0	0	0
JANUARY 1 THROUGH JUNE 30, 2015	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0

OTHER TRAFFIC DOCKET												
DISPOSITIONS TYPE =>	TOTAL	1	2	3	4	5	6	7	8	9	TOTAL	TOTAL
JULY 1 THROUGH DECEMBER 31, 2014	0	0	0	0	0	0	0	0	0	0	0	0
JANUARY 1 THROUGH JUNE 30, 2015	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0

MUNICIPAL ORDINANCE VIOLATIONS												
DISPOSITIONS TYPE =>	CASES FILED	FORFEITURE	BENCH TRIAL	JURY TRIAL	BENCH TRIAL	JURY TRIAL	NOLLE PROSEQUI	TRANSFERRED	OTHER	CONTINUED	TOTAL	PENDING END OF PERIOD
JULY 1 THROUGH DECEMBER 31, 2014	0	0	0	0	0	0	0	0	0	0	0	0
JANUARY 1 THROUGH JUNE 30, 2015	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0

AGE OF PENDING	JURY TRIALS				NON JURY TRIALS				TOTAL NUMBER OF DISPOSED CASES	
	CRIMINAL	DUI 1ST	TRAFFIC	MUNICIPAL ORDINANCE	CRIMINAL	DUI 1ST	TRAFFIC	MUNICIPAL ORDINANCE	FRAUDULENT CHECKS	
AGE IN DAYS										
1 - 30 DAYS OLD	0	0	0	0	0	0	0	0		0
31 - 60 DAYS OLD	0	0	0	0	0	0	0	0		0
61 - 90 DAYS OLD	0	0	0	0	0	0	0	0		0
91 DAYS AND OLDER	0	0	0	0	0	0	0	0		0
TOTAL	0	0	0	0	0	0	0	0		0

F. The Summary Courts on the Case Management System (CMS), can transmit data to South Carolina Law Enforcement Division using the Case Management System and Portal. However, Court Administration does not track or collect this data. All of the Magistrate Courts are on CMS, whereas, approximately 27% of Municipal Courts are on CMS. The data points transmitted are: System ID, County Number, Defendant Name, Defendant Date of Birth, Defendant Social Security Number, Warrant Number, Date of Arrest, Disposition, Disposition Date, Conviction Code, Sentence Literal (Must Include Fines), Offense Code, Filler for future use.

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Gamble, Mattison

From: Wellman, Elizabeth <ewellman@sccourts.org>
Sent: Tuesday, June 26, 2018 3:48 PM
To: Gamble, Mattison
Cc: McCurdy, Robert L.
Subject: RE: Statistics collection question
Attachments: 2016 -2017 Municipal JUDICIAL SURVEY.XLSX

Mr. Gamble,

Court Administration's data depends on the type Court.

For General Sessions, the Clerk of Court transmits data to the Judicial Department at least once a month (for larger counties we recommend daily). The data is then maintained in the County Stats Portal where we can run monthly reports, annual reports, and specialized reports (subject to Rule 610, SCACR). The annual reports are found here: <http://www.sccourts.org/annualReports/>

My understanding is that the data points are focused on the needs of SLED, as SLED and the DMV receive this data as well. Any changes have to be mindful of SLED's capabilities. *Some* of the data fields are: Offense Code, Defendant Name, Date of Birth, Case No., Warrant Number, County Code, File Date, Disposition Date, Disposition Code, Sentence Code, etc.

For Magistrate Court data, we have to have an employee pull the data directly from our Case Management System (CMS) (the Magistrate Courts transmits to SLED via CMS, but not in the County Stats Portal as General Sessions). The data here is limited by the extra cost / time of the special pull and the technical capabilities of CMS. But generally, we can get similar data points to General Sessions, however, there are no data validation checks (whereas the County Stats Portal has some data validation checks).

The Municipal Courts are more complicated. Approximately 27% are on CMS, 49% LawTrac, and the rest are on various systems. Therefore, Terry Leverette manually compiles the data via an annual survey/report. I have attached the 2016-2017 survey.

Respectfully,

Y. Elizabeth Wellman

Staff Attorney

SC Court Administration

1220 Senate Street, Suite 200

Columbia, SC 29201-3747

Office: (803) 734-1800

Direct: (803) 734-1817

Fax: (803) 734-0269

Gamble, Mattison

From: Wellman, Elizabeth <ewellman@sccourts.org>
Sent: Monday, July 02, 2018 9:56 AM
To: Gamble, Mattison
Cc: McCurdy, Robert L.
Subject: RE: Statistics collection question

Mr. Gamble,

Yes, Court Administration does get some data from Family Court, however, that data is structured very differently. Specifically, Court Administration does not currently collect CDR codes for Juveniles as the data is **not** transmitted to SLED. My understanding is DJJ tracks CDR codes and has a very extensive annual report regarding Juvenile data.

Court Administration currently has the following Nature of Action codes for Juvenile cases:

Juvenile Delinquency

Truancy (311)
Incorrigible (312)
Runaway (313)
Criminal Offense – Drug (315)
Criminal Offense – Against a Person (316)
Criminal Offense – Property (317)
Criminal Offense – Public Order (318)
Criminal Offense – Other (320)
Juvenile Delinquency – Other (399) ____

Respectfully,

Y. Elizabeth Wellman

Staff Attorney

SC Court Administration
1220 Senate Street, Suite 200
Columbia, SC 29201-3747
Office: (803) 734-1800
Direct: (803) 734-1817
Fax: (803) 734-0269

From: Gamble, Mattison [mailto:mgamble@cpc.sc.gov]
Sent: Monday, July 2, 2018 9:29 AM
To: Wellman, Elizabeth <ewellman@sccourts.org>
Subject: RE: Statistics collection question

Thanks so much.
Do you get Family Court info?

W. Mattison Gamble
Traffic Safety Resource Prosecutor
SC Commission on Prosecution Coordination
1200 Senate Street, Wade Hampton Bldg.
Suite B-03
Columbia, SC 29201
Tel: (803) 343-0765
Fax: (803) 343-0766
mgamble@cpc.sc.gov

§ 7A-49.4. Superior court criminal case docketing, NC ST § 7A-49.4

N.C. Gen. Stat. § 7A-49.4

West's North Carolina General Statutes Annotated
Chapter 7A. Judicial Department (Refs & Annos)
Subchapter III. Superior Court Division of the General Court of Justice
Article 7. Organization

N.C.G.S.A. § 7A-49.4

§ 7A-49.4. Superior court **criminal case docketing**

Currentness

(a) **Criminal Docketing.**--Criminal cases in superior court shall be calendared by the district attorney at administrative settings according to a **criminal case docketing plan** developed by the district attorney for each superior court district in consultation with the superior court judges residing in that district and after opportunity for comment by members of the local bar. Each **criminal case docketing plan** shall, at a minimum, comply with the provisions of this section, but may contain additional provisions not inconsistent with this section.

(b) **Administrative Settings.**--An administrative setting shall be calendared for each felony within 60 days of indictment or service of notice of indictment if required by law, or at the next regularly scheduled session of superior court if later than 60 days from indictment or service if required. At an administrative setting:

(1) The court shall determine the status of the defendant's representation by counsel;

(2) After hearing from the parties, the court shall set deadlines for the delivery of discovery, arraignment if necessary, and filing of motions;

(3) If the district attorney has made a determination regarding a plea arrangement, the district attorney shall inform the defendant as to whether a plea arrangement will be offered and the terms of any proposed plea arrangement, and the court may conduct a plea conference if supported by the interest of justice;

(4) The court may hear pending pretrial motions, set such motions for hearing on a date certain, or defer ruling on motions until the trial of the case; and

(5) The court may schedule more than one administrative setting if requested by the parties or if it is found to be necessary to promote the fair administration of justice in a timely manner.

Whenever practical, administrative settings shall be held by a superior court judge residing within the district, but may otherwise be held by any superior court judge.

If the parties have not otherwise agreed upon a trial date, then upon the conclusion of the final administrative setting, the district attorney shall announce a proposed trial date. The court shall set that date as the tentative trial date unless, after providing the

**Sharpe, Nicholas 7/14/2014
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§ 7A-49.4. Superior court criminal case docketing, NC ST § 7A-49.4

parties an opportunity to be heard, the court determines that the interests of justice require the setting of a different date. In that event, the district attorney shall set another tentative trial date during the final administrative setting. The trial shall occur no sooner than 30 days after the final administrative setting, except by agreement of the State and the defendant.

Nothing in this section precludes the disposition of a criminal case by plea, deferred prosecution, or dismissal prior to an administrative setting.

(c) **Definite Trial Date.**--When a case has not otherwise been scheduled for trial within 120 days of indictment or of service of notice of indictment if required by law, then upon motion by the defendant at any time thereafter, the senior resident superior court judge, or a superior court judge designated by the senior resident superior court judge, may hold a hearing for the purpose of establishing a trial date for the defendant.

(d) **Venue for Administrative Settings.**--Venue for administrative settings may be in any county within the district when necessary to comply with the terms of the criminal case docketing plan. The presence of the defendant is only required for administrative settings held in the county where the case originated.

(e) **Setting and Publishing of Trial Calendar.**--No less than 10 working days before cases are calendared for trial, the district attorney shall publish the trial calendar. The trial calendar shall schedule the cases in the order in which the district attorney anticipates they will be called for trial and should not contain cases that the district attorney does not reasonably expect to be called for trial. In counties in which multiple sessions of court are being held, the district attorney may publish a trial calendar for each session of court.

(f) **Order of Trial.**--The district attorney, after calling the calendar and determining cases for pleas and other disposition, shall announce to the court the order in which the district attorney intends to call for trial the cases remaining on the calendar. Deviations from the announced order require approval by the presiding judge if the defendant whose case is called for trial objects; but the defendant may not object if all the cases scheduled to be heard before the defendant's case have been disposed of or delayed with the approval of the presiding judge or by consent of the State and the defendant. A case may be continued from the trial calendar only by consent of the State and the defendant or upon order of the presiding judge or resident superior court judge for good cause shown. The district attorney, after consultation with the parties, shall schedule a new trial date for cases not reached during that session of court.

(g) Nothing in this section shall be construed to deprive any victim of the rights granted under Article 1, Section 37 of the North Carolina Constitution and Article 46 of Chapter 15A of the General Statutes.

(h) Nothing in this section shall be construed to affect the authority of the court in the call of cases calendared for trial.

Credits

Added by S.L. 1999-428, § 1, eff. Jan. 1, 2000.

§ 7A-49.4. Superior court criminal case docketing, NC ST § 7A-49.4

Editors' Notes

LIBRARY REFERENCES

Criminal Law [↔](#)632(2).

C.J.S. Criminal Law § 1144.

RESEARCH REFERENCES

Encyclopedias

Strong's N.C. Index 4th, Criminal Law § 123, Notice of Defenses, Expert Witnesses, and Witness Lists.

Strong's N.C. Index 4th, Criminal Law § 213, Calendar for Criminal Trial Sessions.

Strong's N.C. Index 4th, District Attorneys § 6, Powers and Duties, Generally--Matters Relating to Trial Calendars or Dockets.

Relevant Notes of Decisions (19)

[View all 19](#)

Notes of Decisions listed below contain your search terms.

Validity

While criminal superior court has wide discretion in managing criminal cases which are pending before it, vesting of calendaring authority in district attorney does not intrude upon this authority, and does not violate due process clause of United States Constitution, or law of the land, open courts, or criminal jury trial clauses of state constitution because ultimate authority over managing trial calendar is retained in the court. *Simeon v. Hardin*, 1994, 339 N.C. 358, 451 S.E.2d 858. Constitutional Law [↔](#) 2314; Constitutional Law [↔](#) 4522; Criminal Law [↔](#) 632(2); Jury [↔](#) 31.3(1)

Allegations of abuse of the calendaring authority brought against district attorneys were sufficient to state cause of action that statutes granting authority to district attorney were being applied in unconstitutional manner, where complaint alleged that district attorney delayed calendaring criminal defendant's case for trial for the tactical purpose of keeping defendant in jail, delaying trial at which he was likely to be acquitted, and pressuring him into entering guilty plea; that district attorney repeatedly calendared another defendant's trial causing him to incur unnecessary witness-related expenses; that statute which allows district attorney to announce order of cases for trial on first day of criminal session gives defendants less than one day's notice of order in which cases will be called; and that district attorney places large number of cases on printed trial calendar knowing not all cases will be called, in order to surprise defense counsel. *Simeon v. Hardin*, 1994, 339 N.C. 358, 451 S.E.2d 858. Criminal Law [↔](#) 632(2); District And Prosecuting Attorneys [↔](#) 10

Nothing in statutes vesting district attorneys with calendaring authority authorizes district attorney to choose a particular judge to preside over particular criminal case, and thus Court of Appeals would not assume that district attorney utilizes calendaring authority in this manner, on appeal of trial court's dismissal of civil action challenging district attorney's authority to set criminal trial calendar. *Simeon v. Hardin*, 1994, 339 N.C. 358, 451 S.E.2d 858. Appeal And Error [↔](#) 907(1); Criminal Law [↔](#) 632(2); Criminal Law [↔](#) 1144.9

In general

§ 7A-49.4. Superior court criminal case docketing, NC ST § 7A-49.4

A case is “docketed” within the meaning of statute governing the calendaring of **criminal trials** in superior court when initial entry of the case is made in a docket book in the office of the clerk of court. *State v. Messer*, 2001, 145 N.C.App. 43, 550 S.E.2d 802, stay allowed 354 N.C. 72, 552 S.E.2d 637, affirmed 354 N.C. 567, 556 S.E.2d 293, temporary stay dissolved 354 N.C. 578, 559 S.E.2d 548, writ dismissed 354 N.C. 578, 559 S.E.2d 548. **Criminal Law** ¶ 632(2)

Defendant was not required to appear in court within the meaning of the statute governing felonious failure to appear, where the placement of defendant's case on the superior court calendar violated statute governing the calendaring of **criminal cases**. *State v. Messer*, 2001, 145 N.C.App. 43, 550 S.E.2d 802, stay allowed 354 N.C. 72, 552 S.E.2d 637, affirmed 354 N.C. 567, 556 S.E.2d 293, temporary stay dissolved 354 N.C. 578, 559 S.E.2d 548, writ dismissed 354 N.C. 578, 559 S.E.2d 548. **Bail** ¶ 97(1)

The ultimate authority over managing the **trial** calendar is retained in the court, even though the district attorney has statutory authority to calendar cases for **trial**. *State v. Monk*, 1999, 132 N.C.App. 248, 511 S.E.2d 332, appeal dismissed, review denied 350 N.C. 845, 539 S.E.2d 1. **Criminal Law** ¶ 632(2)

Adding attempted murder charge to **trial** calendar after court calendar had been printed was not abuse of **trial** court's discretion. *State v. Monk*, 1999, 132 N.C.App. 248, 511 S.E.2d 332, appeal dismissed, review denied 350 N.C. 845, 539 S.E.2d 1. **Criminal Law** ¶ 632(2)

Due process

Capital murder defendant's right to due process was not impaired by lack of notice, if any, that arraignment was to be held on certain date; defendant was fully aware of charge against him, he entered plea of not guilty at arraignment, and **trial** court eliminated any possibility of prejudice by allowing defendant additional time to file his remaining pretrial motions. *State v. Locklear*, 1998, 349 N.C. 118, 505 S.E.2d 277, certiorari denied 119 S.Ct. 1475, 526 U.S. 1075, 143 L.Ed.2d 559. **Constitutional Law** ¶ 4584; **Criminal Law** ¶ 264

Cases docketed after filing

Placement of defendant's case on the calendar violated the statute governing the calendaring of **criminal trials** in the superior court, where the case was placed on an addendum calendar that was filed with the court three days prior to the hearing date and no evidence indicated that defendant's case was **docketed** prior to the filing of the addendum calendar. *State v. Messer*, 2001, 145 N.C.App. 43, 550 S.E.2d 802, stay allowed 354 N.C. 72, 552 S.E.2d 637, affirmed 354 N.C. 567, 556 S.E.2d 293, temporary stay dissolved 354 N.C. 578, 559 S.E.2d 548, writ dismissed 354 N.C. 578, 559 S.E.2d 548. **Criminal Law** ¶ 632(2)

Although defendant's case was on sentencing calendar and not **trial** calendar, adding defendant's case to **trial** calendar of day subsequent to **trial** court's grant of defendant's motion to withdraw his no contest plea to lesser included offense did not violate statute governing **trial** calendars where district attorney did not know when calendar was made up that defendant's case would be returned to **trial docket** as result of his change of plea and statute expressly provided that case **docketed** after calendar is filed can be called for **trial** at district attorney's discretion. *State v. Edwards*, 1984, 319 S.E.2d 613, 70 N.C.App. 317, review allowed 322 S.E.2d 562, 312 N.C. 489, reversed 337 S.E.2d 508, 315 N.C. 304. **Criminal Law** ¶ 577.1

Continuances

§ 7A-49.4. Superior court criminal case docketing, NC ST § 7A-49.4

While decision to grant or deny continuance is normally within discretion of trial judge, such discretion can be abused, and in unusual case denial of continuance may be so arbitrary and so fundamentally unfair as to invoke constitutional principles. *Shirley v. State of N. C.*, 1975, 528 F.2d 819. **Criminal Law** ¶ 586

Denial by state trial court judge of defendant's motion for continuance violated fundamental fairness standard implicit in due process clause of Fourteenth Amendment and mandated issuance of federal writ of habeas corpus where, when continuance was denied, state had already delayed trial by some 16 months, during which period defendant was unable under local procedure to subpoena witnesses, and where continuance was required in order for defendant to obtain testimony of witness indispensable to his defense. *Shirley v. State of N. C.*, 1975, 528 F.2d 819. **Constitutional Law** ¶ 4611; **Criminal Law** ¶ 595(4); **Criminal Law** ¶ 598(10); **Habeas Corpus** ¶ 479

Denial of defendant's motion for continuance was not error and was not prejudicial where warrant for defendant's arrest was issued on July 23, 1978, on November 14, 1978 counsel was appointed to represent defendant, the case was calendared in district court for probable cause hearing on December 5, 1978, at which time the State announced that it would not proceed with the hearing, and State further announced at that time that it was the State's intention to seek a bill of indictment on December 11, 1978 and case was set for trial during the December 18 criminal session and case was heard on December 19. *State v. Miller*, 1979, 256 S.E.2d 512, 42 N.C.App. 342. **Criminal Law** ¶ 586; **Criminal Law** ¶ 1151

Consolidation of proceedings

Trial court's decision to consolidate charges is discretionary and is limited to determination of whether defendant can receive fair hearing on each charge, and whether consolidation hinders or deprives defendant of his ability to present his defense. *State v. Thompson*, 1998, 129 N.C.App. 13, 497 S.E.2d 126. **Criminal Law** ¶ 619

Trial court could join for trial defendant's calendared charges for kidnapping and robbery with a dangerous weapon with noncalendared charges for armed robbery and robbery from person, as all the charges were transactionally related, arising from defendant's actions in robbing store, and defendant failed to establish prejudice. *State v. Thompson*, 1998, 129 N.C.App. 13, 497 S.E.2d 126. **Criminal Law** ¶ 620(1)

Mere assertion that consolidation of calendared charges with noncalendared charges required altered trial strategy was not sufficient to prove prejudicial error. *State v. Thompson*, 1998, 129 N.C.App. 13, 497 S.E.2d 126. **Criminal Law** ¶ 1166(6)

Requirement that motion for joinder of charges be made prior to arraignment applies only to motions made by defendant. *State v. Thompson*, 1998, 129 N.C.App. 13, 497 S.E.2d 126. **Criminal Law** ¶ 620(1)

Harmless error standard did not apply to sentence imposed on crime that state did not prove, despite state's argument that failure to dismiss charge was not prejudicial because sentence which defendant received for all consolidated armed robbery convictions could have been imposed for any single armed robbery. *State v. Thompson*, 1998, 129 N.C.App. 13, 497 S.E.2d 126. **Criminal Law** ¶ 1177.3(1)

Waiver

By waiting until second day of trial to move for continuance, defendant waived his objection to tardy publication of trial calendar. *State v. Moore*, 1983, 308 S.E.2d 723, 65 N.C.App. 56. **Criminal Law** ¶ 632(2)

§ 7A-49.4. Superior court criminal case docketing, NC ST § 7A-49.4

N.C.G.S.A. § 7A-49.4, NC ST § 7A-49.4

The statutes and Constitution are current through Chapters 1-3, 5-17 of the 2014 Regular Session of the General Assembly.

End of Document

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Charts Related to the Prosecution of Criminal Cases in South Carolina's State Courts

Charts Submitted to

**House Legislative Oversight Committee
Law Enforcement and Criminal Justice Subcommittee**

Charts Submitted by

South Carolina Commission on Prosecution Coordination

Charts 1 – 5 were originally created by the South Carolina Commission on Indigent Defense (SCCID) for the purpose of providing requested information to the Law Enforcement and Criminal Justice Subcommittee of the House Legislative Oversight Committee. SCCID allowed the South Carolina Commission on Prosecution Coordination (SCCPC) to use and modify the original charts for the purpose of providing similar information to the Subcommittee. The charts that follow are modified versions of SCCID charts that address – a general overview fashion – in which courts and in which type of criminal and “quasi-criminal” cases (post-conviction relief and sexually violent predator cases that are handled on the civil side of our state court system) state prosecutors and defense attorneys appear.

SCCPC did not update SCCID's charts or create new charts related to PCR or SCP cases inasmuch as the Solicitors do not handle those cases. The same is true of the non-criminal Family Court abuse and neglect cases in which the state is represented by the South Carolina Department of Social Services (removal and termination of parental rights cases).

Chart 6 was created by SCCPC following the format of charts created in 1967 by the President's Commission on Law Enforcement and Administration and 1997 by the Bureau of Justice Statistics.

Chart 7 was created by SCCPC to provide a listing of the diversion programs, by Circuit and County, offered by the Solicitors' Offices.

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Types of Courts, Cases Heard, and Who Represents Prosecution and Defense

(Please note that the defendants or offenders covered by this chart have the right to represent themselves.)

SUPREME COURT OF SOUTH CAROLINA			
<u>Cases heard by Supreme Court:</u>			
Appeals ¹ from Circuit Court and Family Court. The Supreme Court has exclusive jurisdiction over certain types of appeals, and may grant a writ of certiorari to review decisions of the Court of Appeals.			
<p style="text-align: center;"><u>State (Prosecution)</u></p> <p>Atty: Attorney General, Solicitor, or other prosecutor or prosecution attorney² Paid by: Attorney General, Solicitor, or other prosecution office</p>	<p style="text-align: center;"><u>Individual (Defendant)</u></p> <p>Atty for Indigent Defendant in criminal, PCR, SVP, and family court cases: SCCID atty., other appointed atty., municipal or county contract atty., or volunteer atty. Paid by: SCCID or, for summary court cases, municipalities and counties (volunteer attys. not paid) Attorney for Non-Indigent Defendant in all cases: private atty. Paid by: Defendant or someone else on his behalf</p>		
SOUTH CAROLINA COURT OF APPEALS			
<u>Cases heard by Court of Appeals:</u>			
Appeals from the Circuit Court and Family Court proceedings for which jurisdiction over appeals does not lay within the exclusive jurisdiction of the Supreme Court			
<p style="text-align: center;"><u>State (Prosecution)</u></p> <p>Atty: Attorney General, Solicitor, or other prosecutor or prosecution attorney Paid by: Attorney General, Solicitor, or other prosecution office</p>	<p style="text-align: center;"><u>Individual (Defendant)</u></p> <p>Atty for Indigent Defendant in criminal, PCR, SVP, and family court cases: SCCID atty., other appointed atty., municipal or county contract atty., or volunteer atty. Paid by: SCCID or, for summary court cases, municipalities and counties (volunteer attys. not paid) Attorney for Non-Indigent Defendant in all cases: private atty. Paid by: Defendant or someone else on his behalf</p>		
SOUTH CAROLINA CIRCUIT COURT			
<u>Cases heard by Circuit Court:</u>			
In the Court of General Sessions (the “criminal side” of the Circuit Court), the court addresses criminal offenses over which it either has exclusive jurisdiction or over which it shares jurisdiction (“concurrent jurisdiction”) with the summary court. In the Court of Common Pleas (the “civil side” of the Circuit Court), the court addresses PCR applications, post-sentencing applications for orders of protections, SVP petitions, criminal asset forfeiture matters, and appeals from summary court conviction.			
COURT OF GENERAL SESSIONS		COURT OF COMMON PLEAS	
Criminal Cases		Post-Conviction Relief (PCR)	
<p style="text-align: center;"><u>State (Prosecution)</u></p> <p>Atty: Solicitor or Attorney General³ Paid by: State, county, and/or other sources⁴</p>	<p style="text-align: center;"><u>Individual (Defendant)</u></p> <p>Atty for Indigent Defendant: Rule 608 contract atty., other appointed atty., or volunteer atty. Paid by: SCCID (volunteer attys. not paid) Atty for Non-Indigent Defendant: private atty. Paid by: Defendant or someone on his behalf</p>	<p style="text-align: center;"><u>State (Prosecution)</u></p> <p>Atty: Attorney General Paid by: Attorney General</p>	<p style="text-align: center;"><u>Individual (PCR Applicant)</u></p> <p>Atty for Indigent Defendant: Rule 608 contract atty., other appointed atty., or volunteer atty. Paid by: SCCID (volunteer attys. not paid) Atty for Non-Indigent Defendant: private atty. Paid by: Defendant or someone on his behalf</p>
Sexually-Violent Predator (SVP)			
<p style="text-align: center;"><u>State (Prosecution)</u></p> <p>Atty: Attorney General Paid by: Attorney General</p>		<p style="text-align: center;"><u>Individual (SVP Respondent)</u></p> <p>Atty: 608 contract atty Paid by: SCCID</p>	
Asset Forfeiture Cases			
<p style="text-align: center;"><u>State (Prosecution)</u></p> <p>Atty: Solicitor or contract atty Paid by: Solicitor, County, City, or Law Enforcement</p>		<p style="text-align: center;"><u>Individual (or Innocent Owner)</u></p> <p>Atty: private atty. Paid by: Defendant or someone on his behalf</p>	
Requests for Search Warrants/Orders			
<p style="text-align: center;"><u>State/County (Prosecution)</u></p> <p>Atty: Law Enforcement (occasionally Solicitor) Paid by: Law Enforcement agency or Solicitor</p>	<p style="text-align: center;"><u>Individual (Defendant, Suspect, or Other)</u></p> <p>N/A</p>	<p style="text-align: center;">Summary Court (Magistrate/Municipal Court) Appeals</p>	
<p style="text-align: center;"><u>State, County, or Municipality (Prosecution)</u></p> <p>Atty: Solicitor or municipal atty Paid by: State, county, or municipality</p>		<p style="text-align: center;"><u>Individual (Defendant)</u></p> <p>Atty: Same as in Summary Court or new atty. Paid by: Same as in Summary Court (or if new atty, the defendant or someone on his behalf)</p>	

Types of Courts, Cases Heard, and Who Represents Prosecution and Defense

(Please note that the defendants or offenders covered by this chart have the right to represent themselves.)

SOUTH CAROLINA FAMILY COURT					
<p style="margin: 0;"><u>Cases heard by Family Court⁵:</u></p> <p style="margin: 0;">Juvenile Delinquency Cases - Criminal Offenses and Status Offenses</p>					
Juvenile Delinquency Actions					
<p style="text-align: center; margin: 0;"><u>State (Prosecution)</u></p> <p style="margin: 0;">Atty: Solicitor Paid by: Solicitor</p>	<p style="text-align: center; margin: 0;"><u>Juvenile (Defendant)</u></p> <p style="margin: 0;">Atty: Public Defender Atty for Indigent Defendant: Public Defender, Rule 608 contract atty, other appointed atty, or volunteer atty Paid by: Public Defender or SCCID (volunteer attys. not paid) Attorney for Non-Indigent Defendant: private atty. Paid by: Defendant or someone on his behalf</p>				
SUMMARY COURTS					
Magistrate (County) Court		Municipal (City/Town) Court			
<p style="margin: 0;"><u>Cases Heard by Court for Resolution (Trial or Plea)</u></p> <p style="margin: 0;">Criminal offenses as set by state statute generally carrying no more than 90 days and/or a fine, including traffic offenses that occur in the unincorporated areas of the county, as well as violations of county ordinances</p>		<p style="margin: 0;"><u>Cases Heard by Court</u></p> <p style="margin: 0;">Criminal offenses as set by state statute generally carrying no more than 90 days and/or a fine, including traffic offenses, that occur within the city/town, as well as violations of municipal ordinances</p>			
<p style="text-align: center; margin: 0;"><u>State/County (Prosecution)</u></p> <p style="margin: 0;">Atty: Solicitor, county prosecutor, or law enforcement officers Paid by: Solicitor, County, or law enforcement agency</p>	<p style="text-align: center; margin: 0;"><u>Individual (Defendant)</u></p> <p style="margin: 0;">Atty for Indigent Defendant: Public Defender, Rule 608 contract atty., appointed atty., or volunteer atty. Paid by: Public Defender (if County has contracted with PD), SCCID (Rule 608 Contract atty.), or County (volunteer attys. not paid) Attorney for Non-Indigent Defendant: private atty. Paid by: Defendant or someone on his behalf</p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px; vertical-align: top;"> <p style="text-align: center; margin: 0;"><u>State or Municipality (Prosecution)</u></p> <p style="margin: 0;">Atty: Solicitor, city prosecutor, or law enforcement officers Paid by: Solicitor, city, or law enforcement agency</p> </td> <td style="width: 50%; padding: 5px; vertical-align: top;"> <p style="text-align: center; margin: 0;"><u>Individual (Defendant)</u></p> <p style="margin: 0;">Atty for Indigent Defendant: Public Defender, Rule 608 contract atty., appointed atty., or volunteer atty. Paid by: Public Defender (if City has contracted with PD), SCCID (Rule 608 Contract atty.), or City (volunteer attys. not paid) Attorney for Non-Indigent Defendant: private atty. Paid by: Defendant or someone</p> </td> </tr> </table>	<p style="text-align: center; margin: 0;"><u>State or Municipality (Prosecution)</u></p> <p style="margin: 0;">Atty: Solicitor, city prosecutor, or law enforcement officers Paid by: Solicitor, city, or law enforcement agency</p>	<p style="text-align: center; margin: 0;"><u>Individual (Defendant)</u></p> <p style="margin: 0;">Atty for Indigent Defendant: Public Defender, Rule 608 contract atty., appointed atty., or volunteer atty. Paid by: Public Defender (if City has contracted with PD), SCCID (Rule 608 Contract atty.), or City (volunteer attys. not paid) Attorney for Non-Indigent Defendant: private atty. Paid by: Defendant or someone</p>
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<u>Bond Settings and Preliminary Hearings for General Sessions Cases</u>					
<p style="text-align: center; margin: 0;"><u>State/County (Prosecution)</u></p> <p style="margin: 0;">Atty: Solicitor, county prosecutor, or law enforcement officers Paid by: Solicitor, County, or law enforcement agency</p>	<p style="text-align: center; margin: 0;"><u>Individual (Defendant)</u></p> <p style="margin: 0;">Atty for Indigent Defendant: Public Defender, Rule 608 contract atty., appointed atty., or volunteer atty. Paid by: Public Defender (if County has contracted with PD), SCCID (Rule 608 Contract atty.), or County (volunteer attys. not paid) Attorney for Non-Indigent Defendant: private atty. Paid by: Defendant or someone on his behalf</p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px; vertical-align: top;"> <p style="text-align: center; margin: 0;"><u>State or Municipality (Prosecution)</u></p> <p style="margin: 0;">Atty: Solicitor, city prosecutor, or law enforcement officers Paid by: Solicitor, city, or law enforcement agency</p> </td> <td style="width: 50%; padding: 5px; vertical-align: top;"> <p style="text-align: center; margin: 0;"><u>Individual (Defendant)</u></p> <p style="margin: 0;">Atty for Indigent Defendant: Public Defender, Rule 608 contract atty., appointed atty., or volunteer atty. Paid by: Public Defender (if City has contracted with PD), SCCID (Rule 608 Contract atty.), or City (volunteer attys. not paid) Attorney for Non-Indigent Defendant: private atty. Paid by: Defendant or someone</p> </td> </tr> </table>	<p style="text-align: center; margin: 0;"><u>State or Municipality (Prosecution)</u></p> <p style="margin: 0;">Atty: Solicitor, city prosecutor, or law enforcement officers Paid by: Solicitor, city, or law enforcement agency</p>	<p style="text-align: center; margin: 0;"><u>Individual (Defendant)</u></p> <p style="margin: 0;">Atty for Indigent Defendant: Public Defender, Rule 608 contract atty., appointed atty., or volunteer atty. Paid by: Public Defender (if City has contracted with PD), SCCID (Rule 608 Contract atty.), or City (volunteer attys. not paid) Attorney for Non-Indigent Defendant: private atty. Paid by: Defendant or someone</p>
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<u>Requests for Arrest and Search Warrants</u>					
<p style="text-align: center; margin: 0;"><u>State/County (Prosecution)</u></p> <p style="margin: 0;">Atty: Law Enforcement (rarely Solicitor) Paid by: Law Enforcement agency or Solicitor</p>	<p style="text-align: center; margin: 0;"><u>Individual (Defendant, Suspect, or Other)</u></p> <p style="margin: 0;">N/A</p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px; vertical-align: top;"> <p style="text-align: center; margin: 0;"><u>State or Municipality (Prosecution)</u></p> <p style="margin: 0;">Atty: Solicitor, city prosecutor, or law enforcement officers Paid by: Solicitor, city, or law enforcement agency</p> </td> <td style="width: 50%; padding: 5px; vertical-align: top;"> <p style="text-align: center; margin: 0;"><u>Individual (Defendant)</u></p> <p style="margin: 0;">Atty for Indigent Defendant: Public Defender, Rule 608 contract atty., appointed atty., or volunteer atty. Paid by: Public Defender (if City has contracted with PD), SCCID (Rule 608 Contract atty.), or City (volunteer attys. not paid) Attorney for Non-Indigent Defendant: private atty. Paid by: Defendant or someone</p> </td> </tr> </table>	<p style="text-align: center; margin: 0;"><u>State or Municipality (Prosecution)</u></p> <p style="margin: 0;">Atty: Solicitor, city prosecutor, or law enforcement officers Paid by: Solicitor, city, or law enforcement agency</p>	<p style="text-align: center; margin: 0;"><u>Individual (Defendant)</u></p> <p style="margin: 0;">Atty for Indigent Defendant: Public Defender, Rule 608 contract atty., appointed atty., or volunteer atty. Paid by: Public Defender (if City has contracted with PD), SCCID (Rule 608 Contract atty.), or City (volunteer attys. not paid) Attorney for Non-Indigent Defendant: private atty. Paid by: Defendant or someone</p>
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¹ The party who appeals the judgement of the lower court (which would either be a conviction or an adjudication of guilt or, if the State is appealing, an adverse ruling by trial court – the prosecution has a very limited right to appeal) is referred to as the "Appellant," and the other party is referred to as the "Respondent."

² While the Attorney General handles the overwhelming majority of criminal appeals in the Supreme Court and Court of Appeals for the State, municipal and county attorneys often handle their appeals and the Solicitors will occasionally handle an appeal. In Circuit Court, municipal and county attorneys handle the appeals of the cases they prosecute and the Solicitors handle the appeals of the cases they, as well some of those law enforcement, prosecute.

³ The Attorney General's Office prosecutes its Statewide Grand Jury cases in the General Sessions Court; it also occasionally prosecutes cases conflicted out of a Solicitor's Office (although those cases most usually are conflicted out to a different Solicitor's Office).

⁴ Information regarding payment of DSS/Solicitor/Municipal attorneys is to the best of SCCID's knowledge and may not include all sources of funding.

⁵ While neither criminal nor quasi-criminal in nature, indigent defendants in child abuse/neglect removal and termination of parental rights cases instigated by the South Carolina Department of Social Services (SCDSS) in the Family Court are provided an attorney by the State. The money to pay for the attorneys in these civil cases is appropriated by the General Assembly to SCCID, which does not provide direct representation, but pays contract attorneys to represent these individuals. The State in these cases is represented by SCDSS attorneys.

Types of Violations and Courts in which Prosecuted

TYPES OF VIOLATIONS AND COURTS IN WHICH MAY BE PROSECUTED		
Violation of...	Prosecuted in...	
MUNICIPAL ORDINANCE¹	Municipal (City/Town) Court ² <i>or</i> Magistrate (County) Court <i>ONLY IF approved by governing body of county³</i>	
COUNTY ORDINANCE⁴	Magistrate (County) Court	
STATE STATUTE IN WHICH THE MAXIMUM PENALTY...	Does not exceed \$100 fine or 30 days in jail AND does not include a charge with a penalty that exceeds \$100 fine or 30 days in jail⁵	Magistrate/Municipal Court <i>or</i> General Sessions Court <i>or</i> Family Court (<i>under the age of 17</i>)*
	Does not exceed \$500 fine or 30 days in jail⁶	Magistrate/Municipal Court <i>or</i> General Sessions Court <i>or</i> Family Court (<i>under the age of 17</i>)*
	Does not exceed \$5,500 fine or 1 year in jail	Magistrate/Municipal Court ⁷ <i>(Limited to only where the solicitor requests transfer of the case from General Sessions Court and Defendant does not object)</i> <i>or</i> General Sessions Court <i>or</i> Family Court (<i>under the age of 17</i>)*
	Exceeds \$5,500 fine or 1 year in jail	General Sessions (State) Court <i>or</i> Family Court (<i>under the age of 17</i>)*
FEDERAL STATUTE	U.S. District (Federal) Court	

* In 2016, the General Assembly changed the definition of juvenile to, and the change is scheduled to take effect on July 1, 2019, provided the South Carolina Department of Juvenile Justice receives fund necessary for implementation. 2016 S.C. Act No. 268 (R227, S916).

¹ The penalty for violation of a municipal ordinance cannot exceed \$500 and/or 30 days imprisonment. See S.C. Code §14-25-65.

² S.C. Code §14-25-5(a); S.C. Code §14-25-45.

³ S.C. Code §14-25-5(c).

⁴ The penalty for violation of a county ordinance cannot exceed the penalty jurisdiction of the Magistrates Courts. See S.C. Code § 4-9-30(14).

⁵ S.C. Code §22-3-540 provides that, “Magistrates shall have exclusive jurisdiction of all criminal cases in which the punishment does not exceed a fine of one hundred dollars or imprisonment for thirty days, except cases in which an offense within the jurisdiction of a magistrate is included in the charge of an offense beyond his jurisdiction or when it is permissible to join a charge of an offense within his jurisdiction with one or more of which the magistrate has no jurisdiction. Magistrates shall have concurrent but not exclusive jurisdiction in the excepted cases. The provisions of this section shall not be construed so as to limit the jurisdiction of any magistrate whose jurisdiction has been extended beyond that stated above.”

⁶ See S.C. Code §§14-25-65; 22-3-550. Section 22-3-550 also provides that, except for those cases transferred from the Court of General Sessions under Section 22-3-545, a magistrate cannot sentence a person to consecutive terms of imprisonment totaling more than 90 days except for convictions resulting from violations of Chapter 11, Title 34, pertaining to fraudulent checks, or violations of Section 16-13-110(B)(1), relating to shoplifting. Section 22-3-550(B). In addition, a municipal judge and magistrate may order restitution in an amount not to exceed the civil jurisdictional amount of magistrates provided in Section 22-3-10(2). Section 14-25-65(A); Section 22-3-550(A).

⁷ S.C. Code §22-3-545 provides for the transfer of criminal charges for which the penalty does not exceed five thousand five hundred dollars or one year imprisonment, or both (either as originally charged or as charged pursuant to the terms of a plea agreement) from general sessions court to magistrate or municipal court if the Solicitor requests such, the defendant does not object, and the provisions of the statute are complied with.

General Actions Required to Move Case Forward & Entity Responsible:
Adult Criminal Cases (EXCEPT Capital Murder)

Adult Criminal Case – All Criminal Cases, EXCEPT Capital Murder		
Step	Actions Required to Move Case Forward ¹	Entity Responsible for the Action
1	Citation, Ticket, or Arrest Warrant	Citation – citizen requests Ticket – Law Enforcement issues Arrest Warrant – Law Enforcement requests, County Magistrate issues; and Law Enforcement serves
2	Bond - Initial	Magistrate sets <i>Note: Magistrates cannot set bond for certain charges, including murder (for those, Circuit Court judge must set bond).</i>
3	Preliminary Hearing* <i>*A hearing to review whether probably cause existed to charge the defendant.</i>	Magistrate schedules hearing after defendant requests one (there is no requirement that a defendant request a hearing). <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>
4	Bond Hearing* <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 Court judge</i>	Defendant or Solicitor requests hearing Solicitor schedules hearing Circuit Court judge decides at hearing
5	First Appearance	Solicitor schedules
6	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>
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 judges leave the scheduling of trials to the Solicitors.</i>

¹ There are many nuances in legal actions, and the exact steps in any specific case will depend upon the facts in and unique circumstance of that case, as well as the county in which the case is pending, the frequency in which terms of court are held, and the policies or desires of the judges. The information included in this table is intended only as a very general summary of what must or may occur, when such occurs, and who is responsible for the scheduling of the event(s).

Actions Required to Move Case Forward & Entity Responsible: Capital Murder Cases

Adult Criminal Case - Capital Murder		
Steps	Actions required to Move Case Forward ¹	Entity Responsible for the Action
1	Arrest Warrant	Arrest Warrant – Law Enforcement requests, County Magistrate issues; and Law Enforcement serves
2	Bond - Initial	Magistrate sets <i>Note: Magistrates cannot set bond for certain charges, including murder (for those, Circuit Court judge must set bond).</i>
3	Preliminary Hearing* <i>*A hearing to review whether probably cause existed to charge the defendant.</i>	Magistrate schedules hearing after defendant requests one (there is no requirement that a defendant request a hearing). <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>
4	Bond Hearing* <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 Court judge</i>	Defendant or Solicitor requests hearing Solicitor schedules hearing Circuit Court judge rules on bond at hearing
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	Notice of Intent to Seek the Death Penalty	Solicitor files
7	Assignment of Circuit Court Judge	Supreme Court of South Carolina
8	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 Assigned Circuit Court judge
9	First Appearance	Solicitor or Assigned Circuit Court judge schedules
10	Appointment of Second Attorney	Appointment by Assigned Circuit Court Judge
11	Status Conference	Assigned Circuit Court judge schedules
12	Plea Negotiations (if any)	Solicitor & Defense Attorney conduct
13	Plea Hearing	Assigned Circuit Court Judge schedules hearing
14	Jury Trial	Scheduled by assigned Circuit Court Judge

¹ There are many nuances in legal actions, and the exact steps in any specific case will depend upon the facts in and unique circumstance of that case, as well as the county in which the case is pending, the frequency in which terms of court are held, and the policies or desires of the judges. The information included in this table is intended only as a very general summary of what must or may occur, when such occurs, and who is responsible for the scheduling of the event(s).

Actions Required to Move Juvenile Criminal Cases (Crimes & Status Offenses) – Family Court

Juvenile Criminal Case - Family Court		
Step	Actions required to move case forward ¹	Entity Responsible for the action
1	Issued a ticket or citation, taken into custody, or referred to SCDJJ	Ticket/Citation: Law Enforcement Custody: Law Enforcement Referral: Solicitor or School
2	Parent/custodian notified	Law Enforcement notifies parent/guardian
3	Juvenile released to parent/guardian	Law Enforcement releases (and, in some counties, issues ticket to inform juvenile/parents of required court appearance) Department of Juvenile Justice conducts Intake Process
4	Juvenile not released to parent/guardian – Intake Process conducted	Department of Juvenile Justice
5	Detention Hearing within 48 hours of the Juvenile being taken into custody and attorney appointed if juvenile (family) indigent	Family Court judge
6	Screened for mental health issues (within 24 hrs. of detention)	Department of Juvenile Justice screens
7	Discovery/Pre-Trial Motions* <i>* Discovery is an ongoing process, as is the conduct of any pre-trial motion hearings</i>	Solicitor & Defense Attorney conduct discovery (prosecution is entitled to very little discovery) Motion hearings, if needed, set by Family Court judge
8	Prosecution decision (whether to divert the case, proceed with prosecution, or dismiss). If decision is to proceed with prosecution, juvenile and parents served with summons and petition <i>NOTE: If the case is diverted, but the juvenile unsuccessfully completes the diversion program, the Solicitor may resume the prosecution of the case.</i>	Solicitor
9	If juvenile remains in detention, detention is reviewed (within 10 days, within 30 days thereafter, and 90 days from date of detention) Juvenile cannot be held longer than 90 days without good cause	Family Court judge
10	Waiver (if charge is one for which the option of waiving the juvenile up to the Court of General Sessions to be tried as an adult is available)	Solicitor moves for waiver Family Court judge conducts adversarial hearing and then rules
10	If the case stays in Family Court, trial scheduled <i>NOTE: If the case is waived up to the Court of General Sessions, it would follow the process for adult cases set out in a previous chart.</i>	Solicitor schedules trial
11	Adjudication or Guilt Phase (trial or plea)	Solicitor schedules Family Court judge conducts trial/plea
12	Sentencing <i>NOTE: Sentencing can be conducted at a separate proceeding if requested and judge may order psychological evaluation if appropriate and necessary prior to sentencing.</i>	SCDJJ conducts evaluation if ordered and reports back Family Court judge sentences

¹ There are many nuances in legal actions, and the exact steps in any specific case will depend upon the facts in and unique circumstance of that case, as well as the county in which the case is pending, the frequency in which terms of court are held, and the policies or desires of the judges. The information included in this table is intended only as a very general summary of what must or may occur, when such occurs, and who is responsible for the scheduling of the event(s).

**DIVERSION PROGRAMS OFFERED BY THE OFFICES OF SOLICITOR
BY CIRCUIT AND COUNTY**

KEY	
For purposes of this listing, a diversion program is a program that, if successfully completed, results in the charge(s) against the defendant being dismissed. Programs that result in a reduction in charge(s) requiring conviction or that are for treatment purposes only, prior to or after sentencing, are not considered diversion programs for this listing.	
PTI	Pre-Trial Intervention (mandated by S.C. Code Section 17-22-30)
AEP	Alcohol Education Program (mandated by S.C. Code Section 17-22-510)
TEP	Traffic Education Program (mandated by S.C. Code Section 17-22-310)
WC	Worthless Check Program (authorized by S.C. Code Section 17-22-710)
DC	Drug Court (recognized by S.C. Code Section 17-22-1120(B))
VC	Veterans Court (authorized by S.C. Code Section 14-29-30)
MHC	Mental Health Court (authorized by S.C. Code Section 14-31-40)
JA	Juvenile Arbitration (recognized by S.C. Code Section 17-22-1120(B), and Proviso 67.6, 2018-2019 S.C. Appropriations Act, Part 1B))
JDC	Juvenile Drug Court (recognized by S.C. Code Section 17-22-1120(B))
JPTI	Juvenile Pre-Trial Intervention (authorized by S.C. Code Section 17-22-30)
*	Statutorily mandated diversion program
**	Program operates in two ways, one of which is as a diversion program (the successful completion of which results in a dismissal of the charge) and the other is as a treatment option for defendants placed on probation.

Diversion Programs Offered by the Offices of Solicitor												
Circ	County	PTI	AEP	TEP	WC	DC	VC	MHC	JA	JDC	JPTI	Other
1	Calhoun	X*	X*	X*					X	X		
	Dorchester	X*	X*	X*		X						Youth Mentor (juvenile)
	Orangeburg	X*	X*	X*					X	X		Youth Mentor (juvenile)
2	Aiken	X*	X*	X*	X	X			X			
	Bamberg	X*	X*	X*	X	X			X			
	Barnwell	X*	X*	X*	X	X			X			
3	Clarendon	X*	X*	X*	X	X**			X			
	Lee	X*	X*	X*	X	X**			X			
	Sumter	X*	X*	X*	X	X**			X			
	Williamsburg	X*	X*	X*	X	X**			X			
4	Chesterfield	X*	X*	X*	X	X			X		X	
	Darlington	X*	X*	X*	X				X		X	
	Marlboro	X*	X*	X*	X	X			X		X	
	Dillon	X*	X*	X*	X				X		X	
5	Kershaw	X*	X*	X*	X	X	X	X	X	X	X	
	Richland	X*	X*	X*	X	X	X	X	X	X	X	DUI Court Homeless Court Juvenile Mental Health Court
6	Chester	X*	X*	X*	X	X			X	X		
	Lancaster	X*	X*	X*	X	X			X	X		
	Fairfield	X*	X*	X*	X	X			X	X		

**DIVERSION PROGRAMS OFFERED BY THE OFFICES OF SOLICITOR
BY CIRCUIT AND COUNTY**

KEY	
For purposes of this listing, a diversion program is a program that, if successfully completed, results in the charge(s) against the defendant being dismissed. Programs that result in a reduction in charge(s) requiring conviction or that are for treatment purposes only, prior to or after sentencing, are not considered diversion programs for this listing.	
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7	Cherokee	X*	X*	X*	X	X**	X		X			
	Spartanburg	X*	X*	X*	X	X**	X		X		X	Domestic Violence SIP Program**
8	Abbeville	X*	X*	X*	X	X	X		X			
	Greenwood	X*	X*	X*	X	X	X		X			
	Laurens	X*	X*	X*	X	X	X		X			
	Newberry	X*	X*	X*	X	X	X		X			
9	Berkeley	X*	X*	X*	X	X		X	X	X		
	Charleston	X*	X*	X*	X	X		X	X	X		
10	Anderson	X*	X*	X*	X	X			X			
	Oconee	X*	X*	X*	X	X			X			
11	Edgefield	X*	X*	X*	X	X**						
	Lexington	X*	X*	X*	X	X**			X			Truancy Alternative Program
	McCormick	X*	X*	X*	X	X**						
	Saluda	X*	X*	X*	X	X**						
12	Florence	X*	X*	X*	X	X			X	X	X	Early Childhood Intervention (Juvenile)
	Marion	X*	X*	X*	X	X			X	X	X	Early Childhood Intervention (Juvenile)
13	Greenville	X*	X*	X*	X	X	X	X	X	X	X	New Start Substance Abuse Intervention Program
	Pickens	X*	X*	X*	X		X		X		X	New Start Substance Abuse Intervention Program

**DIVERSION PROGRAMS OFFERED BY THE OFFICES OF SOLICITOR
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Circ	County	PTI	AEP	TEP	WC	DC	VC	MHC	JA	JDC	JPTI	Other
14	Allendale	X*	X*	X*	X				X		X	
	Beaufort	X*	X*	X*	X	X**	X	X	X	X	X	
	Colleton	X*	X*	X*	X				X		X	
	Hampton	X*	X*	X*	X				X		X	
	Jasper	X*	X*	X*	X				X		X	
15	Horry	X*	X*	X*	X	X		X	X			Juvenile Diversion
	Georgetown	X*	X*	X*	X	X						Juvenile Diversion
16	Union	X*	X*	X*	X				X			Veterans Diversion Program
	York	X*	X*	X*	X	X		X	X	X	X	Truancy Court (juvenile) Domestic Violence Initiatives Program Veterans Diversion Program

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