



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

---

## *Commissioner Resource Book 2018*

---

1330 Lady Street, Suite 401  
Post Office Box 11433  
Columbia, South Carolina 29211

Phone: (803) 734-1343  
Fax: (803) 734-1345

*[www.sccid.sc.gov](http://www.sccid.sc.gov)*



## DIRECTORY OF COMMISSIONERS

Name	Address	Phone	Email
William N. Epps, Jr.		T: 864-224-2111 F: 864-224-3536	
Michael H. Lifsey		T: 803-285-5585 F: 803-285-6085	
Daniel F. Pieper		T: 843-266-4838	
D. Ashley Pennington		T: 843-958-1850 F: 843-358-1860	
Ashlin B. Potterfield		T: 803-376-2001	
Harry A. Dest		T: 803-628-3031 F: 803-628-3054	
Sen. Gerald Mallory		T: 803-212-6148 F: 843-332-4646	
Rep. G. Murrell Smith		T: 803-778-2471 F: 803-734-3042	
Edward B. Cottingham		T: 843-479-5617 F: 843-479-1307	
Jack D. Howle, Jr.		T: 803-774-6138 F: 803-774-6136	
Yvonne Murray-Boyles		T: 803-252-2064 F: 803-765-0167	
John Nichols		T: 803-734-2038 F: 803-734-1964	
Walker Willcox		T: 843-664-3373 F: 843-662-1342	



## DIRECTORY OF KEY STAFF

Physical Address: 1330 Lady Street, Suite 401, Columbia, SC 29201  
Mailing Address: Post Office Box 11433, Columbia, SC 29211

NAME	TITLE	PHONE	EMAIL
J. Hugh Ryan	Executive Director	(803) 734-1338	
Hervery B. O. Young	Deputy Director/ General Counsel	(803) 734-1344	
Lori Frost	Assistant Director	(803) 734-1684	
W. Lawrence Brown	Deputy General Counsel/ Training Director	(803) 734-1244	
Rodney Grizzle	Comptroller	(803) 734-1168	
Robert Dudek	Chief Appellate Defender	(803) 734-1955	
Boyd Young	Chief Capital Attorney	(803) 734-1351	



## DIRECTORY OF CIRCUIT DEFENDERS

1 <sup>st</sup> - <b>Mark A. Leiendecker</b>	T: 843-821-9800 F: 843-871-0523	Calhoun, Dorchester, Orangeburg
2 <sup>nd</sup> - <b>De Grant Gibbons</b>	T: 803-642-1732 F: 803-642-1739	Aiken, Bamberg, Barnwell
3 <sup>rd</sup> - <b>Jack D. Howle, Jr.</b>	T: 803-774-6137 F: 803-774-6136	Clarendon, Lee, Sumter, Williamsburg
4 <sup>th</sup> - <b>Matt Rivers</b>	T: 843-623-3020 F: 843-623-3021	Chesterfield, Darlington, Dillon, Marlboro
5 <sup>th</sup> - <b>Fielding Pringle</b>	T: 803-929-6150 F: 803-748-5018	Kershaw, Richland
6 <sup>th</sup> - <b>Mike Lifsey</b>	T: 803-815-4074 F: 803-285-6085	Chester, Fairfield, Lancaster
7 <sup>th</sup> - <b>Clay T. Allen</b>	T: 864-596-2561 F: 864-596-2284	Cherokee, Spartanburg
8 <sup>th</sup> - <b>Janna Nelson</b>	T: 864-229-9505 F: 864-227-1104	Abbeville, Greenwood, Laurens, Newberry
9 <sup>th</sup> - <b>D. Ashley Pennington</b>	T: 843-958-1850 F: 843-958-5149	Berkeley, Charleston

10 <sup>th</sup> - Jennifer L. Johnson	T: 864-260-4048 F: 864-260-4134	Anderson, Oconee
11 <sup>th</sup> - Robert M. Madsen	T: 803-785-8873 F: 803-785-1443	Edgefield, Lexington, McCormick, Saluda
12 <sup>th</sup> - Scott Floyd	T: 843-665-3055 F: 843-665-4041	Florence, Marion
13 <sup>th</sup> Christopher D. Scalzo	T: 864-467-8522 F: 864-467-8521	Greenville, Pickens
14 <sup>th</sup> - Stephanie Smart Gittings	T: 843-255-5000 F: 843-255-9493	Allendale, Beaufort, Colleton, Hampton, Jasper
15 <sup>th</sup> - Orrie E. West	T: 843-915-5385 F: 843-915-6385	Georgetown, Horry
16 <sup>th</sup> - Harry A. Dest	T: 803-628-3031 F: 803-628-3054	Union, York



1330 Lady Street, Suite 401  
Post Office 11433  
Columbia, South Carolina 29211-1433  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

J. Hugh Ryan, *Executive Director*  
Hervey B. O. Young, *Deputy Director and General Counsel*  
Lori Frost, *Assistant Director*

## **MISSION:**

The Commission on Indigent Defense, through the Office of Indigent Defense and its divisions, and in cooperation and consultation with other state agencies, professional associations and other groups interested in the administration of criminal justice and the improvement and expansion of defender services, establishes and monitors programs and services for legal representation to indigent defendants in criminal and specific family court cases in the courts of the state.

## **VISION:**

The vision of SCCID is to ensure that individuals, determined to be indigent, are provided the highest quality of legal representation in the defense of their case and protection of their rights.



## **DIVISION SUMMARIES**

### **Office of Indigent Defense:**

The Office of Indigent Defense establishes criteria for determining indigency and qualifications for services, establishes guidelines for court-appointed attorneys in representing indigent clients, and administers distribution of funding for indigent defense. Additionally, the office establishes and supervises training programs for public defenders and staff across the State, and oversees a central reporting system of statistical data in the delivery of indigent defense services. The office also oversees the payment to court appointed attorneys for certain legal services performed on behalf of indigent clients in the Family Courts of the state.

### **Public Defender Division:**

South Carolina's Public Defender System is a county-based system. The counties are grouped and divided among 16 judicial circuits within the state. Each judicial circuit has a Circuit Public Defender who is responsible for the administration of public defender services in each of the counties within the circuit. Circuit Public Defenders are appointed to the position for four-year terms by the South Carolina Commission on Indigent Defense (SCCID) upon nomination to the position by a Selection Panel, consisting of attorneys representing each of the counties within the circuit.

Circuit Public Defenders are employees of the State of South Carolina. Funding for each circuit comes from the State of South Carolina and from each of the counties within that circuit. The circuit Public Defender System replaced a system of non-profit defender corporations with the passage of the South Carolina Indigent Defense Act of 2007.

### **Appellate Defense Division:**

The Division of Appellate Defense represents defendants in criminal appeals to the South Carolina Supreme Court and Court of Appeals. The Division handles approximately 1,000 appeals each year.

The South Carolina legislature created the original Office of Appellate Defense in 1979 to represent indigents convicted of criminal offenses on the appellate level. Appellate Defense became a division of the Commission on Indigent Defense when the legislature merged the two agencies in 2005.

The Division of Appellate Defense is administered by a Chief Attorney. Division staff includes other attorneys and administrative personnel. Attorneys employed by the Division may not engage in the private practice of law.

**Capital Defense Division:**

The Capital Defense Division within SCCID represents indigent defendants in death-penalty trials statewide. This division has successfully reduced the expense of capital litigation, while providing quality, professional representation to those in need. Previously, such representation was handled almost exclusively by private attorneys, which resulted in our state paying near “market rates” for those legal services. The division provides not only legal representation to its clients, but also investigation and mitigation services for its clients.

In addition to serving its clients, the Capital Defense Division also provides consulting services and defense training to other lawyers representing clients in capital trials in South Carolina.

Capital Defense became a division of SCCID in 2008. The division consists of three attorneys and support staff. Additional services are contracted as needed on a case-by-case basis.





## **ACKNOWLEDGEMENT OF COMMISSIONER OF DUTIES AND RESPONSIBILITIES**

### **MISSION:**

The Commission on Indigent Defense, through the Office of Indigent Defense and its divisions, and in cooperation and consultation with other state agencies, professional associations and other groups interested in the administration of criminal justice and the improvement and expansion of defender services, establishes and monitors programs and services for legal representation to indigent defendants in criminal and specific family court cases in the courts of the state.

### **VISION:**

The vision of SCCID is to ensure that individuals, determined to be indigent, are provided the highest quality of legal representation in the defense of their case and protection of their rights.

### **DUTIES OF THE COMMISSION** as outlined in SC Code § 17-3-310:

The commission:

1. may establish divisions within the office to administer the services and programs as it considers necessary to fulfill the mission and vision of the agency.
2. shall develop rules, policies, procedures, regulations, and standards as it considers necessary to carry out the mission and vision of the agency and comply with state laws or regulations and the rules of the Supreme Court, including the nature and scope of services to be provided, the clientele to be served, and the establishment of criteria to be used in the determination of indigency and qualifications for services for indigent legal representation;
3. shall cooperate and consult with state agencies, professional associations, and other groups concerning the causes of criminal conduct, the rehabilitation and correction of persons charged with and convicted of crimes, the administration of criminal justice, and the improvement and expansion of defender services;

4. shall assist the public defenders throughout the State in their efforts to provide adequate legal defense to the indigent. This assistance includes, but is not limited to:
  - (a) the preparation and distribution of a basic defense manual and other educational materials;
  - (b) the preparation and distribution of model forms and documents employed in indigent defense;
  - (c) the promotion of and assistance in the training of indigent defense attorneys;
  - (d) the provision of legal research assistance to public defenders; and
  - (e) the provision of other assistance to public defenders as may be authorized by law;
  - (5) shall collect, maintain, review, and publish records and statistics for the purpose of evaluating the delivery of indigent defense representation in the State; and
  - (6) shall have the authority to negotiate and enter into contracts, as appropriate, with independent counsel for the provision of indigent defense services in cases in which a conflict of interest exists in a public defender office and in other cases in which indigent representation by independent counsel is necessary or advisable. This authority may be delegated by the commission to a circuit public defender, but is at all times subject to standards established by the commission.
5. The commission shall establish and administer the rules and procedures for selection of members to serve on the Circuit Public Defender Selection Panels, and shall establish the rules and procedures under which the selection panels shall operate.
6. The commission may adopt an appropriate seal and promulgate regulations consistent with the provisions of the SC Code of Laws to govern its operations and procedures and shall supervise the operations of the Office of Indigent Defense including all the divisions of the office.

## **RESPONSIBILITIES OF A COMMISSIONER FOR SCCID**

(as outlined in SC Code § 17-3-340)

As a member of the SC Commission on Indigent Defense, you acknowledge that you have the following responsibilities to fulfill the Mission, Vision and Duties of the Commission:

1. You shall at all times act in the best interest of indigent defendants who are receiving legal representation pursuant to the laws of the State of South Carolina and the policies and procedures of this Agency.
2. You shall carefully and thoroughly consider and vote on all matters before the commission unless otherwise provided by law or by rules adopted by the commission concerning conflicts of interest.
3. You shall serve until a successor has been appointed. Removal of commission members is for cause and must be in accordance with policies and procedures adopted by the commission.
4. You shall attend meet at least quarterly and at other times and places as it deems necessary or convenient for the performance of the duties of the Commission.
5. You shall not receive, seek or accept any compensation for your services on the Commission. However, you be reimbursed for your actual expenses incurred in the performance of your duties as a member of the commission.
6. You shall carefully and thoroughly consider and approve the development and improvement of programs which provide legal representation to indigent persons and juveniles accused of violations of criminal law.
7. You shall carefully and thoroughly consider, approve and implement programs, services, rules, policies, procedures, regulations, and standards as may be necessary or advisable to fulfill the purposes of the agency in the delivery of indigent services. This includes, but is not limited to, standards for:
  - (a) maintaining and operating circuit public defender offices, including requirements regarding qualifications, training, and size of the legal and support staff of the offices and access to data and records, including business records, in each circuit public defender office;
  - (b) prescribing minimum experience, training, and other qualifications for appointed counsel where a conflict of interest arises between the public defender and an indigent person;
  - (c) public defender and appointed counsel caseloads;

- (d) the qualifications, employment, and compensation of public defenders and other circuit public defender office personnel, based on job description, education, training, and experience;
- (e) the performance of public defenders and appointed counsel representing indigent persons;
- (f) procedures for prescribing qualifications and performance of independent counsel representing indigent persons in both trial and appellate courts, whether by contract or court appointment;
- (g) providing and compensating experts, investigators, and other persons who provide services necessary for the effective representation of indigent persons;
- (h) determining indigence and for assessing and collecting the costs of legal representation and related services;
- (i) compensation of attorneys appointed to represent indigent persons pursuant to this chapter;
- (j) removing a circuit public defender for cause;
- (k) a uniform definition of a "case" for purposes of determining caseload statistics; and
- (l) accepting contractual indigent defense representation.

I hereby acknowledge that I have received a copy of and reviewed the duties and responsibilities of a Commissioner for the South Carolina Commission on Indigent Defense.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

# **SCCID POLICIES**

## **Table of Contents**

1. Title 17, Chapter 3 of SC Code of Laws
2. Circuit Defender Selection Process
3. SCCID Voucher Payment Policy
4. SCCID Investigator Policy
5. Rule 608 Contract Program Procedures & Guidelines

# S. C. Code

## Title 17: Defense of Indigents

CHAPTER 3  
Defense of Indigents

ARTICLE 1  
General Provisions

Title  
17

**SECTION 17-3-5. Definitions.**

As used in this chapter, the term:

- (1) "Commission" means the Commission on Indigent Defense.
- (2) "Division of Appellate Defense" includes all attorneys and employees in the division.
- (3) "Assistant public defender" means an attorney who is employed by a circuit public defender office.
- (4) "Circuit public defender" means the head of a public defender office providing indigent defense representation within a given judicial circuit of this State.
- (5) "Circuit public defender office" means the office of one of the several circuit public defenders.
- (6) "Public defender" means an attorney who is employed in a circuit public defender office or who represents an indigent person pursuant to a contractual arrangement with a circuit public defender office.
- (7) "Administering county" means the county within each circuit with which the circuit public defender has an agreement for the administering of indigent defense funds distributed from the State and the counties within the circuit for the provision of indigent defender services within each circuit.
- (8) "Chief county public defender" means a public defender appointed by the circuit public defender to assist in managing, supervising, and providing indigent defense representation in one or more assigned counties within the circuit.

HISTORY: 2007 Act No. 108, Section 2, eff June 21, 2007.

**SECTION 17-3-10. Persons entitled to counsel shall be so advised; when counsel shall be provided.**

Any person entitled to counsel under the Constitution of the United States shall be so advised and if it is determined that the person is financially unable to retain counsel then counsel shall be provided upon order of the appropriate judge unless such person voluntarily and intelligently waives his right thereto. The fact that the accused may have previously engaged and partially paid private counsel at his own expense in connection with pending charges shall not preclude a finding that he is financially unable to retain counsel.

HISTORY: 1962 Code Section 17-281; 1969 (56) 374; 1977 Act No. 98 Section 2.

**SECTION 17-3-20. Appointment of counsel for indigents charged with murder; compensation.**

In the event any person who shall be charged with murder shall, after investigation by the court, be determined to be unable financially to retain adequate legal counsel, the court shall appoint such qualified and experienced counsel to defend such defendant in the trial of the action.

Such appointed counsel shall be paid such fee and costs as the court shall deem appropriate.

HISTORY: 1962 Code Section 17-281.1; 1974 (58) 2361.

**SECTION 17-3-30. Affidavit of inability to employ counsel; payment of indigent's assets to state; application fee; waiver or reduction of fee; disposition of fee revenues; fund for screening applicants.**

(A) A person to whom counsel has been provided shall execute an affidavit that he is financially unable to employ counsel and that affidavit must set forth all his assets. If it appears that the person has some assets but they are insufficient to employ private counsel, the court, in its discretion, may order the person to pay these assets to the general fund of the State.

(B) A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the application fee. If the clerk or other

appropriate official determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation. The clerk of court or other appropriate official shall collect the application fee imposed by this section and remit the proceeds to the state fund on a monthly basis. The monies must be deposited in an interest-bearing account separate from the general fund and used only to provide for indigent defense services. The monies shall be administered by the Office of Indigent Defense. The clerk of court or other appropriate official shall maintain a record of all persons applying for representation and the disposition of the application and shall provide this information to the Office of Indigent Defense on a monthly basis as well as reporting the amount of funds collected or waived.

(C) Sufficient funds shall be set aside from allocations provided for the defense of indigent to provide for adequate screening of applications for indigent assistance to ensure the applicant is qualified.

**HISTORY:** 1962 Code Section 17-282; 1969 (56) 374; 1977 Act No. 219 Pt II Section 19; 1988 Act No. 356, Section 1; 1993 Act No. 164, Part II, Section 45E; 1994 Act No. 497, Part I, E23-Section 14; 1995 Act No. 145, Part IB, E23-Section 14; 1996 Act No. 458, Part II, Section 26B; 1999 Act No. 100, Part II, Section 17; 2007 Act No. 108, Section 4, eff June 21, 2007.

**SECTION 17-3-40.** Creation of claim against assets and estate of person for whom counsel is provided.

(A) The appointment of counsel, as hereinbefore provided, creates a claim against the assets and estate of the person who is provided counsel in an amount equal to the costs of representation as determined pursuant to Sections 17-3-50 and 17-3-80, less that amount that the person pays to the defender corporation of the county or counties wherein he is being represented or the judicial department as provided for in Section 17-3-30.

(B) Such claim shall be filed in the office of the clerk of court in the county where the person is assigned counsel, but the filing of a claim shall not constitute a lien against real or personal property of the person unless, in the discretion of the court, part or all of such claim is reduced to judgment by appropriate order of the court, after serving the person with at least thirty days' notice that judgment will be entered. When a claim is reduced to judgment, it shall have the same effect as judgments, except as modified by this chapter.

(C) The court may, in its discretion, order any claim or judgment waived, modified or withdrawn.

(D) The Judicial Department shall be responsible for administering this section, and all moneys collected hereunder shall be paid over to the Judicial Department.

**HISTORY:** 1962 Code Section 17-283; 1969 (56) 374; 1977 Act No. 219 Part II Section 19; 1988 Act No. 356, Section 2.

**SECTION 17-3-45.** Affidavit of assets of persons seeking appointed counsel; application fee; claim against assets and estate of person provided counsel.

(A) A person to whom counsel has been provided in any court in this State shall execute an affidavit that the person is financially unable to employ counsel and that affidavit shall set forth all of the person's assets. If it appears that the person has some assets but they are insufficient to employ private counsel, the court, in its discretion, may order the person to pay these assets or a portion thereof to the Office of Indigent Defense.

(B) A forty dollar application fee for appointed counsel services must be collected from every person who executes an affidavit that they are financially unable to employ counsel. The person may apply to the court, the clerk of court, or other appropriate official for a waiver or reduction in the application fee. If it is determined that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation or by a time payment method if probation is not granted or appropriate. The clerk of court or other appropriate official shall collect the application fee imposed by this section and remit



the proceeds to the Public Defender Application Fund on a monthly basis. The monies must be deposited in an interest-bearing account separate from the general fund and used only to provide for indigent defense services. The monies shall be administered by the Office of Indigent Defense. The clerk of court or other appropriate official shall maintain a record of all persons applying for representation and the disposition of the application and shall provide this information to the Office of Indigent Defense on a monthly basis as well as reporting the amount of funds collected or waived.

(C) In matters in which a juvenile is brought before a court, the parents or legal guardian of such juvenile shall execute the above affidavit based upon their financial status and shall be responsible for paying any fee. In juvenile matters, the parents or legal guardians of the juvenile, must be advised in writing of this requirement at the earliest stage of the proceedings against the juvenile.

(D) Nothing contained in this section restricts or hinders a court from appointing counsel in any emergency proceedings or where there is not sufficient time for an individual to complete the application process.

(E) The appointment of counsel creates a claim against the assets and estate of the person who is provided counsel or the parents or legal guardians of a juvenile in an amount equal to the costs of representation as determined by a voucher submitted by the appointed counsel and approved by the court, less that amount that the person pays either to the appointed counsel or defender corporation of the county or counties where he is represented or to the Office of Indigent Defense. The claim shall be filed in the office of the clerk of court in the county where the person is assigned counsel, but the filing of a claim shall not constitute a lien against real or personal property of the person unless, in the discretion of the court, part or all of such claim is reduced to judgment by appropriate order of the court, after serving the person with at least thirty days' notice that judgment will be entered. When a claim is reduced to judgment, it shall have the same effect as judgments, except as modified by this chapter.

(F) The court may, in its discretion, order any claim or judgment waived, modified, or withdrawn.

**HISTORY:** 2008 Act No. 353, Section 2, Pt 23I, eff July 1, 2009.

**SECTION 17-3-50.** Determination of fees for appointed counsel and public defenders; maximum amounts; authorization to exceed maximum; payment for certain services.

(A) When private counsel is appointed pursuant to this chapter, he must be paid a reasonable fee to be determined on the basis of forty dollars an hour for time spent out of court and sixty dollars an hour for time spent in court. The same hourly rates apply in post-conviction proceedings. Compensation may not exceed three thousand five hundred dollars in a case in which one or more felonies is charged and one thousand dollars in a case in which only misdemeanors are charged. Compensation must be paid from funds available to the Office of Indigent Defense for the defense of indigents represented by court-appointed, private counsel. The same basis must be employed to determine the value of services provided by the office of the public defender for purposes of Section 17-3-40.

(B) Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment, from funds available to the Office of Indigent Defense, of fees and expenses not to exceed five hundred dollars as the court considers appropriate.

(C) Payment in excess of the hourly rates and limits in subsection (A) or (B) is authorized only if the court certifies, in a written order with specific findings of fact, that payment in excess of the rates is necessary to provide compensation adequate to ensure effective assistance of counsel and payment in excess of the limit is appropriate because the services provided were reasonably and necessarily incurred.

(D) Nothing in this section shall be construed to alter the provisions of Section 17-3-10 concerning those defendants who are entitled to legal representation.

**HISTORY:** 1962 Code Section 17-284; 1969 (56) 374; 1993 Act No. 164, Part II, Section 45F; 2007 Act No. 108, Section 5, eff June 21, 2007.

**SECTION 17-3-55.** Carry-forward of unpaid obligations.

Notwithstanding any other provision of law, the Commission on Indigent Defense is authorized to carry forward unpaid obligations incurred and received for payment in one fiscal year and to pay, to the extent possible, these obligations from funds appropriated in the next year's budget.

HISTORY: 2008 Act No. 353, Section 2, Pt 23H, eff July 1, 2009.

**SECTION 17-3-80.** Appropriation for expenses of appointed private counsel and public defenders; restrictions and limitations.

In addition to the appropriation as provided by law, there is appropriated for the fiscal year commencing July 1, 1969, the sum of fifty thousand dollars for the establishment of the defense fund which must be administered by the Office of Indigent Defense. This fund must be used to reimburse private-appointed counsel, public defenders, and assistant public defenders for necessary expenses, not to exceed two thousand dollars for each case, actually incurred in the representation of persons pursuant to this chapter, so long as the expenses are approved by the trial judge. No reimbursement may be made for travel expenses except extraordinary travel expenses approved by the trial judge. The total state funds provided by this section may not exceed fifty thousand dollars.

HISTORY: 1962 Code Section 17-287; 1969 (56) 374; 1977 Act No. 219 Pt II Section 19; 1987 Act No. 142 Section 1; 1993 Act No. 164, Part II, Section 45G.

**SECTION 17-3-85.** Fiscal year-end disposition of unexpended appropriations for payment of private appointed counsel for counties without public defender corporations.

At the end of each fiscal year all funds appropriated for counties without public defender corporations which have not been exhausted shall be combined into one fund and any and all claims of private appointed counsel in other counties remaining unpaid by virtue of the exhaustion of appropriated funds in those respective counties shall be paid on a pro rata basis until such fund is exhausted or until all claims are satisfied. After payment of the above, any funds remaining at the end of a fiscal year maintained by the Judicial Department shall revert to the general fund of the State at the end of that fiscal year.

HISTORY: 1982 Act No. 466, Part II Section 43.

**SECTION 17-3-90.** Vouchers for payment for services by private appointed counsel and for reimbursement of expenses; approval and submission for payment.

Private, appointed counsel shall submit a voucher to the Office of Indigent Defense setting forth all details of the appointment for purposes of remuneration pursuant to Section 17-3-50 and reimbursement of expenses pursuant to Section 17-3-80, and the public defender shall do likewise pursuant to Section 17-3-80. It is the duty of the Office of Indigent Defense to present the voucher to the trial judge for approval and to transmit the same to the Comptroller General for payment to the appropriate party.

HISTORY: 1962 Code Section 17-288; 1969 (56) 374; 1977 Act No. 219 Pt II Section 19; 2007 Act No. 108, Section 6, eff June 21, 2007.

**SECTION 17-3-100.** Discretionary authority of judge to appoint counsel is not limited; remuneration and reimbursement.

Nothing herein contained is designed to limit the discretionary authority of a judge to appoint counsel in any case and any such counsel shall be entitled to remuneration and reimbursement as provided in Sections 17-3-50 and 17-3-80 hereof, so long as funds appropriated herein are available therefor.

HISTORY: 1962 Code Section 17-289; 1969 (56) 374.

**SECTION 17-3-110.** Power of Supreme Court to establish rules and regulations.

The Supreme Court of South Carolina is hereby empowered to establish such rules and regulations as are necessary for the proper administration of this chapter.

HISTORY: 1962 Code Section 17-290; 1969 (56) 374.

ARTICLE 3  
Commission on Indigent Defense

**SECTION 17-3-310.** Commission created; appointment of members; terms; powers and duties.

(A) There is created the Commission on Indigent Defense consisting of thirteen members.

(B) Nine members shall be appointed by the Governor as follows:

(1) One member from each of the four judicial regions of the State appointed upon recommendation of the South Carolina Public Defender Association. Members shall serve for terms of four years and until their successors are appointed and qualify. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term. A person may not be appointed to the commission pursuant to the provisions of this item or, once appointed pursuant to the provisions of this item, may not continue to serve on the commission unless the person is a public defender.

(2) A member of the South Carolina Bar whose practice is principally in family law, appointed upon recommendation by the South Carolina Bar membership for a term of two years and who may be reappointed.

(3) Two members of the South Carolina Bar whose practice is principally in criminal defense law, appointed upon recommendation of the South Carolina Bar membership, who shall serve for a term of two years and may be reappointed.

(4) Two members of the South Carolina Bar whose practice is principally neither criminal defense nor family law, appointed upon recommendation of the South Carolina Bar membership, who shall serve for two-year terms and who may be reappointed.

(C) The remaining four members must be appointed as follows:

(1) two members appointed by the Chief Justice of the South Carolina Supreme Court, one of whom must be a retired circuit court judge and one of whom must be either a retired family court judge or a retired appellate court judge, each of whom shall serve for a term of four years and until a successor is appointed and qualifies; and

(2) the Chairmen of the Senate and House Judiciary Committees, or their legislative designees, for the terms for which they are elected.

(D) The chairman must be elected by the commission from its membership and shall serve for a term of two years. A chairman may be re-elected.

(E) Members currently serving as of July 1, 2005, shall continue to serve until the expiration of their term and may be reappointed as provided in subsection (B)(1).

(F) The commission may adopt an appropriate seal and promulgate regulations consistent with the provisions of this article to govern its operations and procedures and shall supervise the operations of the Office of Indigent Defense including all the divisions of the office.

(G) The commission:

(1) may establish divisions within the office to administer the services and programs as it considers necessary to fulfill the purposes of this article;

(2) shall develop rules, policies, procedures, regulations, and standards as it considers necessary to carry out the provisions of the article and comply with state law or regulations and the rules of the Supreme Court, including the nature and scope of services to be provided, the clientele to be served, and the establishment of criteria to be used in the determination of indigency and qualifications for services for indigent legal representation;

(3) shall cooperate and consult with state agencies, professional associations, and other groups concerning the causes of criminal conduct, the rehabilitation and correction of persons charged with and

convicted of crimes, the administration of criminal justice, and the improvement and expansion of defender services;

(4) shall assist the public defenders throughout the State in their efforts to provide adequate legal defense to the indigent. This assistance includes, but is not limited to:

- (a) the preparation and distribution of a basic defense manual and other educational materials;
- (b) the preparation and distribution of model forms and documents employed in indigent defense;
- (c) the promotion of and assistance in the training of indigent defense attorneys;
- (d) the provision of legal research assistance to public defenders; and
- (e) the provision of other assistance to public defenders as may be authorized by law;

(5) shall collect, maintain, review, and publish records and statistics for the purpose of evaluating the delivery of indigent defense representation in the State; and

(6) shall have the authority to negotiate and enter into contracts, as appropriate, with independent counsel for the provision of indigent defense services in cases in which a conflict of interest exists in a public defender office and in other cases in which indigent representation by independent counsel is necessary or advisable. This authority may be delegated by the commission to a circuit public defender, but is at all times subject to standards established by the commission.

(7) The commission shall establish and administer the rules and procedures for selection of members to serve on the Circuit Public Defender Selection Panels, and shall establish the rules and procedures under which the selection panels shall operate.

**HISTORY:** 1993 Act No. 164, Part II, Section 45C; 2005 Act No. 103, Section 2, eff July 1, 2005; 2007 Act No. 108, Section 7, eff June 21, 2007.

**SECTION 17-3-320.** Office of Indigent Defense; executive director; appointment; duties.

(A) There is created the Office of Indigent Defense under the jurisdiction of the commission. The office must be administered by an executive director appointed by the commission. The executive director may hire other administrative, clerical, and legal staff and is authorized to contract with outside consultants on behalf of the office as he considers necessary to provide the services as required pursuant to the provisions of this article.

(B) The executive director shall:

(1) administer and coordinate the operations of the office and all divisions within the office and supervise compliance among the circuit defender offices with rules, procedures, regulations, and standards adopted by the commission;

(2) maintain proper records of all financial transactions related to the operation of the office;

(3) coordinate the services of the office with any federal, county, private, or other programs established to provide assistance to indigent persons entitled to representation pursuant to the provisions of this chapter and consult with professional organizations concerning the implementation and improvement of programs for providing indigent services;

(4) prepare and submit annually to the commission a proposed budget for the provision of statewide indigent defense services; and prepare and submit an annual report containing pertinent data on the operations, costs, and needs of the state's indigent defense system and other information as the commission may require;

(5) coordinate in the development and implementation of rules, policies, procedures, regulations, and standards adopted by the commission to carry out the provisions of this chapter and comply with all applicable laws and standards;

(6) maintain proper records of all financial transactions related to the operation of the commission;

(7) apply for and accept on behalf of the commission funds that may become available from any source, including government, nonprofit, or private grants, gifts, or bequests;

(8) provide for the training of attorneys and other staff involved in the legal representation of persons subject to the provisions of this chapter;

- (9) attend all commission meetings, except those meetings or portions of the meetings that address the question of appointment or removal of the director;
- (10) ensure that the expenditures of the commission are not greater than the amounts budgeted or available from other revenue sources; and
- (11) perform other duties as the commission assigns.

HISTORY: 1993 Act No. 164, Part II, Section 45C; 2005 Act No. 103, Section 2, eff July 1, 2005; 2007 Act No. 108, Section 7, eff June 21, 2007.

**SECTION 17-3-330. Duties of Office of Indigent Defense.**

(A) The Office of Indigent Defense shall:

- (1) serve as the entity which distributes all funds appropriated by the General Assembly for the defense of indigents, including funds allocated to public defender offices pursuant to the formula, funds for the defense of capital cases, funds for attorney's fees and expenses in non-capital cases, and other funds appropriated for these purposes;
- (2) perform those functions provided pursuant to Section 17-3-360;
- (3) serve as a resource for the compilation of accurate statistical data covering the indigent defense system in this State;
- (4) implement other duties the commission may direct; and
- (5) report annually to the General Assembly on the indigent defense system.

(B) On or about June thirtieth of each year, if the Office of Indigent Defense determines, after taking into consideration all outstanding obligations against the fund for payment of attorney fees and expenses in non-capital cases, that unexpended funds remain, these funds shall be rolled over into the fund for payment of attorney's fees and expenses in capital cases; provided, however, this shall occur only in the event the funds in the capital fund have been exhausted at that time. This fund shall at no time exceed three million dollars.

(C) Notwithstanding another provision of law, only attorneys who are licensed to practice in this State and residents of this State may be appointed by the court and compensated with funds appropriated to the Death Penalty Trial Fund in the Office of Indigent Defense.

HISTORY: 1993 Act No. 164, Part II, Section 45C; 1994 Act No. 497, Part I, E23-Section 14; 1995 Act No. 145, Part IB, E23-Section 14; 1996 Act No. 458, Part II, Section 26C; 2005 Act No. 103, Section 2, eff July 1, 2005; 2007 Act No. 108, Section 7, eff June 21, 2007.

**SECTION 17-3-340. Duties of commission.**

(A) All members of the commission shall at all times act in the best interest of indigent defendants who are receiving legal representation pursuant to the provisions of this chapter.

(B) All members of the commission are entitled to vote on all matters before the commission unless otherwise provided by law or by rules adopted by the commission concerning conflicts of interest.

(C) Each member of the commission shall serve until a successor has been appointed. Removal of commission members is for cause and must be in accordance with policies and procedures adopted by the commission.

(D) Unless otherwise provided in this article, a quorum is a majority of the members of the commission who are currently serving in office, and decisions of the commission are determined by majority vote of the members present, except that a majority of the entire commission must approve the appointment or removal of a circuit public defender or the executive director for cause.

(E) The commission shall meet at least quarterly and at other times and places as it deems necessary or convenient for the performance of its duties and shall keep and maintain minutes of all commission meetings.

(F) The commission shall elect such officers, other than the chairperson, from the members of the commission as it deems necessary and shall adopt rules for the transaction of its business as it desires.

Elected officers shall serve for a term of one year and may be removed without cause by a vote of two-thirds of the members of the entire commission and for cause by a majority vote of the entire commission. The chairperson shall retain a vote on all matters except those in which the chairperson has a conflict of interest.

(G) The members of the commission shall receive no compensation for their services but will be reimbursed for their actual expenses incurred in the performance of their duties as members of the commission. Expenses incurred by the commission must be paid from the general operating budget of the commission.

(H) The commission shall approve the development and improvement of programs which provide legal representation to indigent persons and juveniles accused of violations of criminal law.

(I) The commission shall approve and implement programs, services, rules, policies, procedures, regulations, and standards as may be necessary or advisable to fulfill the purposes and provisions of this article in the delivery of indigent services. This includes, but is not limited to, standards for:

(1) maintaining and operating circuit public defender offices, including requirements regarding qualifications, training, and size of the legal and support staff of the offices and access to data and records, including business records, in each circuit public defender office;

(2) prescribing minimum experience, training, and other qualifications for appointed counsel where a conflict of interest arises between the public defender and an indigent person;

(3) public defender and appointed counsel caseloads;

(4) the qualifications, employment, and compensation of public defenders and other circuit public defender office personnel, based on job description, education, training, and experience;

(5) the performance of public defenders and appointed counsel representing indigent persons;

(6) procedures for prescribing qualifications and performance of independent counsel representing indigent persons in both trial and appellate courts, whether by contract or court appointment;

(7) providing and compensating experts, investigators, and other persons who provide services necessary for the effective representation of indigent persons;

(8) determining indigence and for assessing and collecting the costs of legal representation and related services;

(9) compensation of attorneys appointed to represent indigent persons pursuant to this chapter;

(10) removing a circuit public defender for cause;

(11) a uniform definition of a "case" for purposes of determining caseload statistics; and

(12) accepting contractual indigent defense representation.

HISTORY: 2005 Act No. 103, Section 2, eff July 1, 2005; 2007 Act No. 108, Section 7, eff June 21, 2007.

#### **SECTION 17-3-350. Immunity.**

The members of the commission and the Circuit Public Defender Selection Panel and other policy-making or administrative personnel acting in a policy-making or administrative capacity in connection with the commission or the panel are not subject to civil liability resulting from an act or failure to act in the implementation and carrying out of the purposes of this chapter.

HISTORY: 2005 Act No. 103, Section 2, eff July 1, 2005; 2007 Act No. 108, Section 7, eff June 21, 2007.

#### **SECTION 17-3-360. Division of Appellate Defense created; administration and staffing; duties and responsibilities.**

(A) There is created within the Office of Indigent Defense, the Division of Appellate Defense. All of the allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with the commission and Office of Appellate Defense formerly provided in Chapter 4, Title 17 are transferred to and incorporated in and must be administered as part of the Office of Indigent Defense.

(B) The division must be administered by a chief attorney. The staff of the division shall consist of additional attorneys and administrative, investigative, secretarial, and clerical employees necessary to

discharge the duties of the division. No person may be hired to serve as an attorney who is not licensed to practice law in this State. Attorneys employed by the division shall devote full time to their duties and may not engage in the private practice of law.

(C) The division shall carry out the following duties and responsibilities:

(1) It shall represent a person who the office determines, subject to court review, falls within the guidelines promulgated pursuant to Section 17-3-310(G)(2) who files Notice of Intention to Appeal or desires to appeal a conviction in a trial court, or decision of a proceeding in civil commitment or other voluntary placement in a state, county, or municipal facility. A person desiring representation by the division shall request a determination of his indigency status in writing from the Supreme Court, the court of appeals, the circuit or family court, or the division. A court receiving a request for indigent appellate representation shall forward the request to the office who, within ten days of the receipt of the request for representation, shall notify the person requesting representation and the court in which the appeal will be effected of its decision.

(2) Upon a finding that a person requesting representation qualifies as an indigent and after being appointed as counsel for this person by the court in which the appeal will be effected, the division shall represent this person in his appeal of a conviction in a trial court, or decision of a proceeding in civil commitment or other involuntary placement in a state, county, or municipal facility, provided nothing in this article requires the division to pursue an appeal unless the chief attorney of the division is first satisfied that there is arguable merit to the appeal.

(3) It shall represent indigents, other than at trial or commitment proceedings when appointed by the court.

(4) It shall represent indigents in appeals of convictions in trial courts of this State, or decisions of civil commitment proceedings or other involuntary placement only in courts of this State.

HISTORY: 2005 Act No. 103, Section 2, eff July 1, 2005; 2007 Act No. 108, Section 7, eff June 21, 2007.

#### **SECTION 17-3-370. Appointment of counsel by court.**

The provisions of this article shall not restrict a court in which an appeal is to be effected, from appointing counsel for indigent persons when the division is disqualified from representation for reasons of conflict or when the division deems it advisable that it not provide representation for the indigent person.

HISTORY: 2007 Act No. 108, Section 7, eff June 21, 2007.

Editor's Note

Prior laws. 2005 Act No. 103, Section 2; 1976 Code Section 17-3-350.

#### **SECTION 17-3-380. Funding.**

The commission will be funded by appropriations to the commission in the state General Appropriations Act including federal funds as may be available.

HISTORY: 2007 Act No. 108, Section 7, eff June 21, 2007.

Editor's Note

Prior law. 2005 Act No. 103, Section 2; 1976 Code Section 17-3-360.

### **ARTICLE 5 Circuit Public Defenders**

**SECTION 17-3-510. Circuit Public Defender Selection Panel; county representation; nomination of Circuit Public Defender; election by South Carolina Prosecution Coordination Commission.**

(A) There is created in each judicial circuit in the State a Circuit Public Defender Selection Panel, the membership of which is composed of, and must be elected by, the active, licensed attorneys who reside within the counties of each judicial circuit. Each county in each judicial circuit must be represented by at

least one member and the remaining members must be determined by equal weighting of county population based on the most recent decennial census and the most recent annual county appropriations to public defender operations according to the following formula:

(1) percentage of distribution of population plus the percentage of distribution of appropriations for public defender operations divided by two and rounded to the nearest whole number;

(2) the weighted values of each county multiplied by the number of remaining members in each Circuit Public Defender Selection Panel determines the number of additional members each county must have on the panel.

Judicial circuits with three or less counties must have five members. Judicial circuits with four counties must have seven members. Judicial circuits with five counties must have nine members.

(B) A solicitor, assistant solicitor, an employee of a solicitor's office, or an employee of the South Carolina Prosecution Coordination Commission may not serve as a member of a Circuit Public Defender Selection Panel. Members of a Circuit Public Defender Selection Panel must reside in the judicial circuit in which they serve. Circuit Public Defender Selection Panel members shall serve for a term of five years. A vacancy for an appointed member must be in the same manner of the original appointment filled by the appointing authority.

(C) By majority vote of its membership, the Circuit Public Defender Selection Panel shall nominate a person to serve as the circuit public defender in the judicial circuit as provided in this article. The commission shall, by majority vote of its members, accept or reject the nomination, but may not substitute the name of another person. Initial appointments of circuit public defenders must be made in order for the first appointees to take office no later than one year from the effective date of this act, for a term of four years. A circuit public defender may be reappointed by the commission to serve successive terms following the same manner of the original appointment. The circuit public defender for each judicial circuit must be a full-time employee of the State and must be compensated and have the same benefits as the circuit solicitor. A circuit public defender may not engage in the private practice of law or another full-time business for profit.

(D) A circuit public defender may be removed for cause by a majority vote of the commission.

(E) If a vacancy occurs, by death, resignation, or otherwise, in the position of circuit public defender, the commission shall appoint an interim circuit public defender to serve until a replacement has been selected by the commission. The Circuit Public Defender Selection Panel shall nominate a replacement circuit public defender within three months of the occurrence of the vacancy. Selection of a replacement must be in the same manner as the original appointment.

**HISTORY:** 2007 Act No. 108, Section 3, eff June 21, 2007.

**SECTION 17-3-520.** Circuit public defender; qualifications; responsibilities.

(A) In order for a person to be eligible to fill the position of circuit public defender, the person must:

(1) be at least twenty-five years of age;

(2) have been admitted and licensed to practice law in all courts of the State for at least five years;

(3) be a member in good standing of the South Carolina Bar, at all times; and

(4) be competent to counsel and defend a person charged with a capital felony and be certified at all times to defend capital cases in the State.

(B) A circuit public defender is responsible for:

(1) administering and coordinating the day-to-day operations of their respective offices, supervising the public defenders and other staff serving in the offices, and actively participating in the representation of clients throughout the judicial circuit;

(2) keeping and maintaining appropriate records, which includes:

(i) the number of persons represented pursuant to the provisions of this chapter, including cases assigned to other attorneys because of conflicts of interest;

(ii) the offenses charged; the outcome of each case; the expenditures made in carrying out the duties imposed by this article; and



- (iii) other information and data as the commission may from time to time require;
- (3) establishing a juvenile offender division within the circuit public defender office to specialize in the criminal defense of juveniles;
- (4) preparing and submitting annually to the executive director of the commission a proposed budget for the provision of circuit-wide indigent defense services, an annual report containing pertinent data on the operation, costs, and needs of the circuit defender office, and other information as the commission or executive director may require;
- (5) assisting the commission in establishing the state system and establishing the standards, policies, and procedures required pursuant to the applicable provisions of Section 17-3-310;
- (6) developing and presenting for the commission's approval a circuit plan for the delivery of criminal indigent defense services;
- (7) establishing processes and procedures consistent with commission standards to ensure that when a case that is assigned to the office presents a conflict of interest for a public defender, the conflict is identified and handled appropriately and ethically;
- (8) negotiating and entering into contracts, as appropriate and when authorized by the commission, with independent counsel actively practicing within the circuit for the provision of indigent defense services in cases in which a conflict of interest exists in the circuit public defender office and in other criminal cases in the circuit in which indigent defense representation by independent counsel is necessary or advisable;
- (9) establishing processes and procedures consistent with commission standards to ensure that office and contract personnel use information technology and caseload management systems so that detailed expenditure and caseload data is accurately collected, recorded, and reported;
- (10) establishing administrative management procedures for circuit and county offices;
- (11) establishing procedures in conformity with commission standards for managing caseloads and assigning cases in a manner that ensures that public defenders are assigned cases according to experience, training, and manageable caseloads and taking into account case complexity, the severity of the charges, potential punishments, and the legal skills required to provide effective assistance of counsel;
- (12) establishing policies and procedures consistent with commission standards and Supreme Court Rules for assigning counsel for indigent persons in capital cases;
- (13) establishing and supervising consistent commission standards, a training and performance evaluation program for attorneys and non-attorney staff members and contractors;
- (14) establishing procedures consistent with commission standards to handle complaints involving indigent defense performance and to ensure that public defenders, office personnel, contract and appointed attorneys and clients are aware of avenues available for bringing a complaint and that office procedures do not conflict with the rules and disciplinary jurisdiction of the South Carolina Supreme Court; and
- (15) performance of other duties assigned by the commission.

**HISTORY:** 2007 Act No. 108, Section 3, eff June 21, 2007.

**SECTION 17-3-530. Chief county public defenders; responsibilities and duties.**

(A) Each circuit public defender may employ, assign, and supervise one or more chief county public defenders in the counties within the circuit to assist in managing, supervising, and providing indigent defense representation in the circuit.

(B) Each chief county public defender must be responsible for:

- (1) managing, supervising, and providing public defender services within the assigned county or counties;
- (2) performing other duties as assigned by the circuit public defender, including duties that may be assigned throughout the circuit; and
- (3) keeping a record of public defender and associated services and expenses in the assigned county or counties and submitting the records to the circuit public defender as requested.

**HISTORY:** 2007 Act No. 108, Section 3, eff June 21, 2007.

**SECTION 17-3-540. Maintenance and staffing of county public defender offices.**

(A) Subject to the provisions of this section, the circuit public defender in each judicial circuit may maintain offices and employ chief county public defenders, assistant public defenders, investigators, and other staff as necessary to provide adequate and meaningful representation of indigent clients within the counties of the judicial circuit. Personnel employed pursuant to the provisions of this section serve at the pleasure of the circuit public defender and have responsibilities as the circuit public defender directs.

(B) These employees are employees of the administering county and entitled to the same fringe benefits as other personnel employed by the administering county. All personnel costs including fringe benefits must be paid by the administering county, but must be reimbursed to the administering county from operational funds provided to the circuit public defender office from county and state appropriated funds.

HISTORY: 2007 Act No. 108, Section 3, eff June 21, 2007.

**SECTION 17-3-550. Funding.**

No county may appropriate funds for public defender operations in a fiscal year below the amount it funded in the immediate previous fiscal year.

HISTORY: 2007 Act No. 108, Section 3, eff June 21, 2007.

**SECTION 17-3-560. Administration of funds.**

Each circuit public defender shall expend the funds received from the counties in the circuit, the State, and other sources for the general operations of the circuit defenders office including reimbursement to the administering county for employee compensation and fringe benefits. Each circuit public defender shall enter into an agreement with the appropriate county within the judicial circuit to administer the funds provided pursuant to the provisions of this article and the funds must be directed to the administering county. The administering county shall account for the receipt and disbursement of the funds separately from other funds administered by the county.

HISTORY: 2007 Act No. 108, Section 3, eff June 21, 2007.

**SECTION 17-3-570. Administration of personnel.**

(A) All public defenders and other personnel employed by a county public defender corporation on a full-time or a part-time basis are considered employees of the circuit public defenders office in the judicial circuit in which they serve. No employee currently employed pursuant to the provisions of this section may be terminated, except for cause for a period of one year from the effective date of employment by the circuit public defender office. No employee salaries and benefits, including accrued leave, may be less than that which the employee is earning as of the effective date of employment by the circuit public defender office.

(B) Each circuit public defender is authorized to employ administrative, clerical, and paraprofessional personnel as may be authorized by the commission based on funds appropriated by the General Assembly or otherwise available provided, however, that each circuit public defender is authorized not less than two positions as provided in this section. In authorizing administrative, clerical, and paraprofessional personnel, the commission shall consider the caseload, present staff, and resources available to each circuit public defender and shall make authorizations as will contribute to the efficiency of individual circuit public defenders in providing effective criminal defense for indigent defendants.

(C) All personnel employed by the circuit public defenders pursuant to this article shall be employees of the administering county and shall be compensated based on the unclassified service schedule of the South Carolina Merit System of Personnel Administration.

(D) Personnel employed by the circuit public defenders pursuant to this article shall have the authority, duties, powers, and responsibilities as are authorized by law or as assigned by the circuit public defender and shall serve at the pleasure of the circuit public defender.

(E) The circuit public defender shall fix the compensation of each state-paid employee appointed pursuant to this article in accordance with the class to which the person is appointed and the appropriate step of the salary schedule. All salary advancements must be based on quality of work, training, and performance. A reduction in salary must be made in accordance with the salary schedule for the position and the policies, rules, or regulations adopted by the commission.

HISTORY: 2007 Act No. 108, Section 3, eff June 21, 2007.

**SECTION 17-3-580.** Public defenders; requirements as to employment.

(A) A public defender employed full-time by the circuit public defender shall not engage in the private practice of law for profit.

(B) A public defender employed by the circuit public defender must be a member of the South Carolina Bar and must be admitted to practice before all courts of this State.

(C) A public defender shall serve at the pleasure of the circuit public defender and shall have the authority, powers, and duties as assigned by the circuit public defender.

HISTORY: 2007 Act No. 108, Section 3, eff June 21, 2007.

**SECTION 17-3-590.** Office space and equipment.

The governing body of the county shall provide, in conjunction and cooperation with the other counties in the judicial circuit and in a pro rata share according to the population of each county, appropriate offices, utilities, telephone expenses, materials, and supplies as are necessary to equip, maintain, and furnish the office or offices of the circuit public defender in an orderly and efficient manner.

HISTORY: 2007 Act No. 108, Section 3, eff June 21, 2007.

**SECTION 17-3-600.** Existing contracts for providing indigent defense services.

All contracts in force on the date this legislation is effective between private attorneys and county indigent defense corporations for the provision of indigent defense services within a county or counties shall remain in force and be recognized by the commission and circuit public defender offices until their respective expiration dates or one year from the effective date of this act, whichever is earlier.

HISTORY: 2007 Act No. 108, Section 3, eff June 21, 2007.

# Circuit Defender Selection Process

**Uniform Guidelines for the Selection of  
Circuit Public Defender Selection Panels  
(Revised and Republished 4-25-2008)**

Section 17-3-510, of the 2007 Indigent Defense Act provides that each county must elect its representative(s) from the active licensed attorneys who reside within each county to serve on its Circuit Public Defender Selection Panel, for a term of five years and Section 17-3-310(G)(7) provides, "The commission shall establish and administer the rules and procedures for selection of members to serve on the Circuit Public Defender Selection Panels, and shall establish the rules and procedures under which the selection panels shall operate." In order to assure a fair, impartial and objective process for the selection of each circuit public defender, the following procedures have been adopted by the Commission on Indigent Defense for the Election of the Circuit Public Defender Selection Panels and the Nomination of Circuit Public Defenders.

Circuit  
Defender  
Selection

**Who Conducts the Election**

The election will be conducted by the President of the county's Bar Association, who must be an active licensed attorney residing in the county. If a county does not have a bar president, or if the bar president is unable or unwilling to conduct an election, then the election shall be conducted by an active licensed attorney residing in the county designated for such a purpose by the Executive Director of the Commission.

**Methods for Conducting Election**

Elections shall be conducted in one of two ways, at the discretion of the individual authorized to conduct the election. The two ways are either the "Meeting" method or the "Mail-In" method. Each method, with required certifications, is detailed below.

**Pledging Prohibitions**

No applicant or potential applicant for circuit public defender may seek directly or indirectly the pledge of a member or potential member of a Circuit Public Defender Selection Panel or directly or indirectly contact a Commissioner of the South Carolina Commission on Indigent Defense regarding his or her candidacy for circuit public defender.

No member of the Bar may offer directly or indirectly his or her pledge to an applicant or potential applicant at any time.

No member of a selection panel or the Commission may pledge his or her commitment to an applicant or potential applicant at anytime.

The prohibitions stated above do not prevent Bar members or the general public from communicating with panel members or the Commission in support of or opposition to an applicant once the panel has been selected and has commenced its consideration of applicants.

For purposes of these guidelines indirectly seeking a pledge means the applicant or potential applicant or someone acting on his or her behalf and/or at the request of the applicant or potential applicant; and indirectly offering a pledge means anyone acting in his or her own behalf and/or at the request of another person or persons.

If an applicant or potential applicant or any other person becomes aware of any solicitation or offering of pledges such person has an affirmative duty to inform the Commission on Indigent Defense of that activity, following the Complaint Procedures set forth in these guidelines.

Violations of these policies shall be reported immediately to the General Counsel for SCCID, following the Complaint procedures outlined below. The Commission will address any violations and/or complaints regarding the selection process in accordance with the complaint procedures therein outlined.

### **Complaint Procedures concerning Circuit Public Defender Selection Panels**

1. Complaints regarding alleged improper acts or omissions in the election of members to a Circuit Public Defender Selection Panel and in the selection of a nominee Circuit Public Defender by a selection panel must be made in writing and provided to the General Counsel for the Commission on Indigent Defense within 10 days of discovery of any alleged improper activity. Complaints will remain confidential between complainant, SCCID General Counsel and the SCCID Executive Director pending presentment to the Commission.
2. The complaint shall list specific facts supporting each and every claim of impropriety.
3. The complaint shall list the name, address and telephone number of each and every witness complainant is aware of that has information concerning the facts of the matter.
4. The Commission has the authority to request that the general counsel interview all material witnesses. Witnesses may be asked to appear before the Commission; however witnesses who are not also the complainant cannot be compelled to appear.
5. The Commission will take such action as it deems appropriate or take no further action after review of complaint.
6. If requested, complainant (this includes any witness acting as complainant) will appear before the Commission and be prepared to answer questions concerning any allegations.
7. The complainant will not address or have any third party address the issues with individual members of the Commission. Any correspondence, communication, etc., shall be to the General Counsel of the agency, Hugh Ryan. (P.O. Box 11433, Columbia, SC 29211) (803)734-1338. [hryan@sccid.sc.gov](mailto:hryan@sccid.sc.gov)

## Election Methods

1. **Meeting.** If the individual authorized to conduct the election decides to hold a meeting, the meeting must be held at a reasonable time and place. Written or electronic notice, reasonably calculated to reach all the active licensed attorneys residing within the county, must be made at least seven (7) days and no more thirty (30) days prior to the meeting. The individual authorized to conduct the election has the responsibility to ensure adequate notice to all attorneys entitled to vote and the discretion to choose the method of notice that is most appropriate. At the appointed time and place, the floor shall be opened for nominations and all those qualified to vote shall have an opportunity to nominate candidates. Upon the close of the nomination period, a secret ballot shall be conducted. No proxies shall be allowed; voters must be present to cast a ballot. All nominees, nominators and voters must certify in writing that he or she meets the eligibility requirements: (1) actually residing in the county, and (2) being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. See [www.sccid.sc.gov](http://www.sccid.sc.gov), **Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels.** All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. The certification form (attached) shall be exchanged for a secret ballot (attached). Each voter shall be entitled to vote for as many candidates as there are seats available to that county. Those candidates receiving the most votes shall be elected to the available seats on the selection panel. In the event of a tie, a run-off shall be immediately conducted in the same manner, but only between those nominees receiving the most votes (plurality), in a number twice that of the remaining seats available. All ballots shall be counted in an open and public procedure, and the result shall be certified, on the attached form, by the individual authorized to conduct the election and forwarded to the executive director of SCCID, P.O. Box 11433 Columbia, SC 29211 within five (5) days after the election has been completed. At all times the designee shall conduct the meeting in accordance with Robert's Rules of Order.

**Notice of Meeting to Nominate and Elect  
Circuit Public Defender Selection Panel Members**

The South Carolina Legislature has passed South Carolina Code § 17-3-5 which creates a statewide Circuit Public Defender system. The Circuit Public Defender will be selected by a Circuit Public Defender Selection Panel, composed of attorneys residing in the county in the circuit. Our county bar must nominate and elect \_\_\_\_\_ members for that panel. The South Carolina Bar and the South Carolina Commission on Indigent Defense have notified me that you are an attorney residing in \_\_\_\_\_ County and therefore eligible to vote for and nominate members to the Circuit Public Defender Selection Panel.

All nominees, nominators and voters must certify in writing that they meet all eligibility requirements including: actually residing in the county, being an active licensed attorney in South Carolina and that they have complied with the prohibitions concerning pledges. See [www.sccid.sc.gov](http://www.sccid.sc.gov), **Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels.** All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor’s office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. Each voter shall be entitled to vote for as many candidates as there are seats available to that county.

**Nominations and elections will take place on \_\_\_\_\_, 20\_ at \_\_\_\_\_ at \_\_\_\_\_, M. Election will be by secret ballot and the counting of the ballots will occur immediately after election.**

\_\_\_\_\_  
Signature, County Bar President  
or SCCID Designee



**Certification of Eligibility to Vote and/ or be Nominated for the  
Circuit Public Defender Selection Panel Members  
(to be exchanged for a secret ballot)**

I, \_\_\_\_\_, hereby swear and affirm that, I am an active licensed attorney residing in \_\_\_\_\_ County and am eligible to vote for my county's Circuit Public Defender Selection Panel Members. I understand that if I am a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense I am not eligible for nomination to the Circuit Public Defender Selection Panel. I understand and have complied with the prohibitions concerning pledges as established in the selection guidelines.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Bar Number

SWORN TO BEFORE me this      day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires:

**Secret Ballot for Circuit Public Defender Selection Panel Members**

The South Carolina Legislature has passed South Carolina Code § 17-3-5 which creates a statewide Circuit Public Defender system. The Circuit Public Defender will be selected by a Circuit Public Defender Selection Panel, composed of members of the county bars in the circuit.

All nominees, nominators and voters must certify in writing that they meet all eligibility requirements including: actually residing in the county, and being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. Each voter shall be entitled to vote for as many candidates as there are seats available to that county.

The nominees will be announced by the individual authorized to conduct the election at the close of nominations and prior to the receipt of these ballots. You may vote for \_\_\_ individuals, which is the number of members our county will have on the panel. Please write the name(s) of your choice(s):

---

---

---

---

**Certification of Proper Election of Circuit Public Defender  
Selection Panel Members**

I, \_\_\_\_\_, hereby swear and affirm that the election of panel members for \_\_\_\_\_ County's seats on the \_\_\_\_\_ Circuit's Public Defender Selection Panel were conducted in accordance with the Uniform Guidelines for the Selection of Circuit Public Defenders. I further swear and affirm that all votes were counted in an open and public process and that those elected to the panel had the proscribed plurality of votes, and that all voters and nominees were in fact eligible to vote and had certified in writing their eligibility

\_\_\_\_\_  
Signature of the Individual  
Authorized to Conduct the Election

\_\_\_\_\_  
Bar Number

SWORN TO BEFORE me this      day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires:

- or -

2. **Mail-in.** If the individual authorized to conduct the election decides to conduct a mail-in election, written notice, reasonably calculated to reach all the active licensed attorneys residing within the county, must be sent by U.S. mail at least seven (7) days and no more thirty (30) days prior to the close of nominations. It shall be the responsibility of the individual authorized to conduct the election to determine the list of attorneys who should receive the notice. Nominations shall be received according to a procedure described in the attached notice. Nominators must certify in writing that he or she meets the eligibility requirements: (1) actually residing in the county, and (2) being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. See [www.sccid.sc.gov](http://www.sccid.sc.gov), **Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels** In order for a nominee to be placed on the ballot, the nominee must certify in writing that he or she meets all eligibility requirements and must further certify that he or she is not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. All nominees shall be listed on a ballot and the attached ballot shall be sent by U.S. Mail to all attorneys eligible to vote and shall state the directions and timeframe not to be shorter than ten (10) days or longer than twenty (20) days for return. Each voter shall be entitled to vote for as many candidates as there are seats available to that county. Those candidates receiving the most votes (plurality) shall be elected to the available seats on the selection panel. In the event of a tie a run-off shall be conducted in the same manner, but the run-off ballot shall only list those nominees receiving the most votes, in a number twice that of the remaining seats available. All ballots shall contain a certification of eligibility that all voters must sign. All ballots shall be counted in a transparent procedure and the result certified, on the attached form, by the individual authorized to conduct the election and forwarded to the Executive Director of SCCID, P.O. Box 11433 Columbia, SC 29211 within five (5) days after the election has been completed.

### Nomination of Circuit Public Defender Selection Panel Members

This nomination form may be returned by U.S. Mail to the address shown below or faxed to the telephone number shown below.

The South Carolina Legislature has passed South Carolina Code § 17-3-5 which creates a statewide Circuit Public Defender system. The Circuit Public Defender will be selected by a Circuit Public Defender Selection Panel, composed of members of the county bars in the circuit. Our county bar must nominate and elect \_\_\_\_\_ members for that panel. The South Carolina Bar and the South Carolina Commission on Indigent Defense have notified me that you are an attorney residing in \_\_\_\_\_ County and therefore eligible to nominate and vote for members to the Circuit Public Defender Selection Panel for this county.

All nominees, nominators and voters must certify in writing that they meet the eligibility requirements which are: (1) actually residing in the county and (2) being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. See [www.sccid.sc.gov](http://www.sccid.sc.gov), **Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels**. All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. All nominees shall be listed on a ballot and after the nomination period has closed the ballot will be sent to all those eligible to vote. Each voter shall be entitled to vote for as many candidates as there are seats available to this county.

In order to nominate individuals for election, please return this form to me, as shown below, with the name of the individual/s you wish to nominate, not to exceed the number of members that this county can elect to the Panel, within ten (10) days of receiving this form. The nomination period will close and the nominations will be opened on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ at \_\_\_\_\_, M. Anyone eligible to vote can view the opening of the nominations, I and at least one other attorney who is eligible to vote will be present to record the nominations.

I nominate: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that I am eligible to nominate the above individual(s) based on the requirements above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Bar Number

If you wish to return this nomination form by U.S. Mail, please address it as follows:

by fax, send it to the following:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Certification of Eligibility to be Nominated to the Circuit  
Public Defender Selection Panel**

I, \_\_\_\_\_, hereby swear and affirm that, I am an active licensed attorney residing in \_\_\_\_\_ County and that I am eligible to be nominated for my county's Circuit Public Defender Selection Panel. I further swear and affirm that I am not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. . I understand and have complied with the prohibitions concerning pledges as established in the selection guidelines.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Bar Number

SWORN TO BEFORE me this      day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires:

**Mail-In Ballot for Circuit Public Defender Selection Panel Members**

The South Carolina Legislature has passed South Carolina Code § 17-3-5 which creates a statewide Circuit Public Defender system. The Circuit Public Defender will be selected by a Circuit Public Defender Selection Panel, composed of members of the county bars in the circuit. The South Carolina Bar and the South Carolina Commission on Indigent Defense have notified me that you are an attorney residing in this county and therefore are eligible to vote for members to the Circuit Public Defender Selection Panel.

All nominees, nominators and voters must certify in writing that they meet all eligibility requirements including: actually residing in the county, and being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor’s office, an employee of the South Carolina Prosecution Coordination Commission, or a member of the judiciary or a member of the Commission on Indigent Defense. Each voter shall be entitled to vote for as many candidates as there are seats available to that county.

The following individuals have been nominated to serve as members on the Circuit Public Defender Selection Panel. You may vote for \_\_\_ individuals, which is the number of members our county will have on the panel. Please circle the name(s) of your choice(s):

[Insert the names of all nominees here.]

**Certification of Eligibility to Vote**

I, \_\_\_\_\_, hereby swear and affirm that, I am an active licensed attorney residing in \_\_\_\_\_ County and am eligible to vote for my county’s Circuit Public Defender Selection Panel Members. I further swear and affirm that if I am nominee, I am not a solicitor, assistant solicitor, an employee of a solicitor’s office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. I understand and have complied with the prohibitions concerning pledges as established in the selection guidelines.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Bar Number

SWORN TO BEFORE me this     day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public for South Carolina

My commission expires:

**Certification of Proper Election of Circuit Public Defender  
Selection Panel Members**

I, \_\_\_\_\_, hereby swear and affirm that the election of panel members for \_\_\_\_\_ County's seats on the \_\_\_\_\_ Circuit's Public Defender Selection Panel were conducted in accordance with the Uniform Guidelines for the Selection of Circuit Public Defenders. I further swear and affirm that all votes were counted in an open and public process and that those elected to the panel had the proscribed plurality of votes, and that all voters and nominees were in fact eligible to vote and had certified in writing their eligibility.

\_\_\_\_\_  
Signature of the Individual  
Authorized to Conduct the Election

\_\_\_\_\_  
Bar Number

SWORN TO BEFORE me this     day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires:



**Uniform Guidelines for the Selection of  
Circuit Public Defender Selection Panels  
(Revised and Republished 4-25-2008)**

Section 17-3-510, of the 2007 Indigent Defense Act provides that each county must elect its representative(s) from the active licensed attorneys who reside within each county to serve on its Circuit Public Defender Selection Panel, for a term of five years and Section 17-3-310(G)(7) provides, "The commission shall establish and administer the rules and procedures for selection of members to serve on the Circuit Public Defender Selection Panels, and shall establish the rules and procedures under which the selection panels shall operate." In order to assure a fair, impartial and objective process for the selection of each circuit public defender, the following procedures have been adopted by the Commission on Indigent Defense for the Election of the Circuit Public Defender Selection Panels and the Nomination of Circuit Public Defenders.

**Who Conducts the Election**

The election will be conducted by the President of the county's Bar Association, who must be an active licensed attorney residing in the county. If a county does not have a bar president, or if the bar president is unable or unwilling to conduct an election, then the election shall be conducted by an active licensed attorney residing in the county designated for such a purpose by the Executive Director of the Commission.

**Methods for Conducting Election**

Elections shall be conducted in one of two ways, at the discretion of the individual authorized to conduct the election. The two ways are either the "Meeting" method or the "Mail-In" method. Each method, with required certifications, is detailed below.

**Pledging Prohibitions**

No applicant or potential applicant for circuit public defender may seek directly or indirectly the pledge of a member or potential member of a Circuit Public Defender Selection Panel or directly or indirectly contact a Commissioner of the South Carolina Commission on Indigent Defense regarding his or her candidacy for circuit public defender.

No member of the Bar may offer directly or indirectly his or her pledge to an applicant or potential applicant at any time.

No member of a selection panel or the Commission may pledge his or her commitment to an applicant or potential applicant at anytime.

The prohibitions stated above do not prevent Bar members or the general public from communicating with panel members or the Commission in support of or opposition to an applicant once the panel has been selected and has commenced its consideration of applicants.

For purposes of these guidelines indirectly seeking a pledge means the applicant or potential applicant or someone acting on his or her behalf and/or at the request of the applicant or potential applicant; and indirectly offering a pledge means anyone acting in his or her own behalf and/or at the request of another person or persons.

If an applicant or potential applicant or any other person becomes aware of any solicitation or offering of pledges such person has an affirmative duty to inform the Commission on Indigent Defense of that activity, following the Complaint Procedures set forth in these guidelines.

Violations of these policies shall be reported immediately to the General Counsel for SCCID, following the Complaint procedures outlined below. The Commission will address any violations and/or complaints regarding the selection process in accordance with the complaint procedures therein outlined.

### **Complaint Procedures concerning Circuit Public Defender Selection Panels**

1. Complaints regarding alleged improper acts or omissions in the election of members to a Circuit Public Defender Selection Panel and in the selection of a nominee Circuit Public Defender by a selection panel must be made in writing and provided to the General Counsel for the Commission on Indigent Defense within 10 days of discovery of any alleged improper activity. Complaints will remain confidential between complainant, SCCID General Counsel and the SCCID Executive Director pending presentment to the Commission.
2. The complaint shall list specific facts supporting each and every claim of impropriety.
3. The complaint shall list the name, address and telephone number of each and every witness complainant is aware of that has information concerning the facts of the matter.
4. The Commission has the authority to request that the general counsel interview all material witnesses. Witnesses may be asked to appear before the Commission; however witnesses who are not also the complainant cannot be compelled to appear.
5. The Commission will take such action as it deems appropriate or take no further action after review of complaint.
6. If requested, complainant (this includes any witness acting as complainant) will appear before the Commission and be prepared to answer questions concerning any allegations.
7. The complainant will not address or have any third party address the issues with individual members of the Commission. Any correspondence, communication, etc., shall be to the General Counsel of the agency, Hugh Ryan. (P.O. Box 11433, Columbia, SC 29211) (803)734-1338. [hryan@sccid.sc.gov](mailto:hryan@sccid.sc.gov)

## Election Methods

1. **Meeting.** If the individual authorized to conduct the election decides to hold a meeting, the meeting must be held at a reasonable time and place. Written or electronic notice, reasonably calculated to reach all the active licensed attorneys residing within the county, must be made at least seven (7) days and no more thirty (30) days prior to the meeting. The individual authorized to conduct the election has the responsibility to ensure adequate notice to all attorneys entitled to vote and the discretion to choose the method of notice that is most appropriate. At the appointed time and place, the floor shall be opened for nominations and all those qualified to vote shall have an opportunity to nominate candidates. Upon the close of the nomination period, a secret ballot shall be conducted. No proxies shall be allowed; voters must be present to cast a ballot. All nominees, nominators and voters must certify in writing that he or she meets the eligibility requirements: (1) actually residing in the county, and (2) being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. See [www.sccid.sc.gov](http://www.sccid.sc.gov), **Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels.** All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. The certification form (attached) shall be exchanged for a secret ballot (attached). Each voter shall be entitled to vote for as many candidates as there are seats available to that county. Those candidates receiving the most votes shall be elected to the available seats on the selection panel. In the event of a tie, a run-off shall be immediately conducted in the same manner, but only between those nominees receiving the most votes (plurality), in a number twice that of the remaining seats available. All ballots shall be counted in an open and public procedure, and the result shall be certified, on the attached form, by the individual authorized to conduct the election and forwarded to the executive director of SCCID, P.O. Box 11433 Columbia, SC 29211 within five (5) days after the election has been completed. At all times the designee shall conduct the meeting in accordance with Robert's Rules of Order.

**Notice of Meeting to Nominate and Elect  
Circuit Public Defender Selection Panel Members**

The South Carolina Legislature has passed South Carolina Code § 17-3-5 which creates a statewide Circuit Public Defender system. The Circuit Public Defender will be selected by a Circuit Public Defender Selection Panel, composed of attorneys residing in the county in the circuit. Our county bar must nominate and elect \_\_\_\_\_ members for that panel. The South Carolina Bar and the South Carolina Commission on Indigent Defense have notified me that you are an attorney residing in \_\_\_\_\_ County and therefore eligible to vote for and nominate members to the Circuit Public Defender Selection Panel.

All nominees, nominators and voters must certify in writing that they meet all eligibility requirements including: actually residing in the county, being an active licensed attorney in South Carolina and that they have complied with the prohibitions concerning pledges. See [www.sccid.sc.gov](http://www.sccid.sc.gov), **Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels.** All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. Each voter shall be entitled to vote for as many candidates as there are seats available to that county.

**Nominations and elections will take place on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ at \_\_\_\_\_, M. Election will be by secret ballot and the counting of the ballots will occur immediately after election.**

\_\_\_\_\_  
Signature, County Bar President  
or SCCID Designee

**Certification of Eligibility to Vote and/ or be Nominated for the  
Circuit Public Defender Selection Panel Members  
(to be exchanged for a secret ballot)**

I, \_\_\_\_\_, hereby swear and affirm that, I am an active licensed attorney residing in \_\_\_\_\_ County and am eligible to vote for my county's Circuit Public Defender Selection Panel Members. I understand that if I am a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense I am not eligible for nomination to the Circuit Public Defender Selection Panel. I understand and have complied with the prohibitions concerning pledges as established in the selection guidelines.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Bar Number

SWORN TO BEFORE me this      day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires:

**Secret Ballot for Circuit Public Defender Selection Panel Members**

The South Carolina Legislature has passed South Carolina Code § 17-3-5 which creates a statewide Circuit Public Defender system. The Circuit Public Defender will be selected by a Circuit Public Defender Selection Panel, composed of members of the county bars in the circuit.

All nominees, nominators and voters must certify in writing that they meet all eligibility requirements including: actually residing in the county, and being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. Each voter shall be entitled to vote for as many candidates as there are seats available to that county.

The nominees will be announced by the individual authorized to conduct the election at the close of nominations and prior to the receipt of these ballots. You may vote for \_\_\_ individuals, which is the number of members our county will have on the panel. Please write the name(s) of your choice(s):

---

---

---

---

**Certification of Proper Election of Circuit Public Defender  
Selection Panel Members**

I, \_\_\_\_\_, hereby swear and affirm that the election of panel members for \_\_\_\_\_ County's seats on the \_\_\_\_\_ Circuit's Public Defender Selection Panel were conducted in accordance with the Uniform Guidelines for the Selection of Circuit Public Defenders. I further swear and affirm that all votes were counted in an open and public process and that those elected to the panel had the proscribed plurality of votes, and that all voters and nominees were in fact eligible to vote and had certified in writing their eligibility

\_\_\_\_\_  
Signature of the Individual  
Authorized to Conduct the Election

\_\_\_\_\_  
Bar Number

SWORN TO BEFORE me this      day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires:

- or -

2. **Mail-in.** If the individual authorized to conduct the election decides to conduct a mail-in election, written notice, reasonably calculated to reach all the active licensed attorneys residing within the county, must be sent by U.S. mail at least seven (7) days and no more thirty (30) days prior to the close of nominations. It shall be the responsibility of the individual authorized to conduct the election to determine the list of attorneys who should receive the notice. Nominations shall be received according to a procedure described in the attached notice. Nominators must certify in writing that he or she meets the eligibility requirements: (1) actually residing in the county, and (2) being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. See [www.sccid.sc.gov](http://www.sccid.sc.gov), **Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels** In order for a nominee to be placed on the ballot, the nominee must certify in writing that he or she meets all eligibility requirements and must further certify that he or she is not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. All nominees shall be listed on a ballot and the attached ballot shall be sent by U.S. Mail to all attorneys eligible to vote and shall state the directions and timeframe not to be shorter than ten (10) days or longer than twenty (20) days for return. Each voter shall be entitled to vote for as many candidates as there are seats available to that county. Those candidates receiving the most votes (plurality) shall be elected to the available seats on the selection panel. In the event of a tie a run-off shall be conducted in the same manner, but the run-off ballot shall only list those nominees receiving the most votes, in a number twice that of the remaining seats available. All ballots shall contain a certification of eligibility that all voters must sign. All ballots shall be counted in a transparent procedure and the result certified, on the attached form, by the individual authorized to conduct the election and forwarded to the Executive Director of SCCID, P.O. Box 11433 Columbia, SC 29211 within five (5) days after the election has been completed.



### Nomination of Circuit Public Defender Selection Panel Members

This nomination form may be returned by U.S. Mail to the address shown below or faxed to the telephone number shown below.

The South Carolina Legislature has passed South Carolina Code § 17-3-5 which creates a statewide Circuit Public Defender system. The Circuit Public Defender will be selected by a Circuit Public Defender Selection Panel, composed of members of the county bars in the circuit. Our county bar must nominate and elect \_\_\_\_\_ members for that panel. The South Carolina Bar and the South Carolina Commission on Indigent Defense have notified me that you are an attorney residing in \_\_\_\_\_ County and therefore eligible to nominate and vote for members to the Circuit Public Defender Selection Panel for this county.

All nominees, nominators and voters must certify in writing that they meet the eligibility requirements which are: (1) actually residing in the county and (2) being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. See [www.sccid.sc.gov](http://www.sccid.sc.gov), **Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels**. All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. All nominees shall be listed on a ballot and after the nomination period has closed the ballot will be sent to all those eligible to vote. Each voter shall be entitled to vote for as many candidates as there are seats available to this county.

In order to nominate individuals for election, please return this form to me, as shown below, with the name of the individual/s you wish to nominate, not to exceed the number of members that this county can elect to the Panel, within ten (10) days of receiving this form. The nomination period will close and the nominations will be opened on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ at \_\_\_\_\_, M. Anyone eligible to vote can view the opening of the nominations, I and at least one other attorney who is eligible to vote will be present to record the nominations.

I nominate: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that I am eligible to nominate the above individual(s) based on the requirements above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Bar Number

If you wish to return this nomination form by U.S. Mail, please address it as follows:

by fax, send it to the following:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Certification of Eligibility to be Nominated to the Circuit  
Public Defender Selection Panel**

I, \_\_\_\_\_, hereby swear and affirm that, I am an active licensed attorney residing in \_\_\_\_\_ County and that I am eligible to be nominated for my county's Circuit Public Defender Selection Panel. I further swear and affirm that I am not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. . I understand and have complied with the prohibitions concerning pledges as established in the selection guidelines.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Bar Number

SWORN TO BEFORE me this      day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires:

**Mail-In Ballot for Circuit Public Defender Selection Panel Members**

The South Carolina Legislature has passed South Carolina Code § 17-3-5 which creates a statewide Circuit Public Defender system. The Circuit Public Defender will be selected by a Circuit Public Defender Selection Panel, composed of members of the county bars in the circuit. The South Carolina Bar and the South Carolina Commission on Indigent Defense have notified me that you are an attorney residing in this county and therefore are eligible to vote for members to the Circuit Public Defender Selection Panel.

All nominees, nominators and voters must certify in writing that they meet all eligibility requirements including: actually residing in the county, and being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, or a member of the judiciary or a member of the Commission on Indigent Defense. Each voter shall be entitled to vote for as many candidates as there are seats available to that county.

The following individuals have been nominated to serve as members on the Circuit Public Defender Selection Panel. You may vote for \_\_\_ individuals, which is the number of members our county will have on the panel. Please circle the name(s) of your choice(s):

[Insert the names of all nominees here.]

**Certification of Eligibility to Vote**

I, \_\_\_\_\_, hereby swear and affirm that, I am an active licensed attorney residing in \_\_\_\_\_ County and am eligible to vote for my county's Circuit Public Defender Selection Panel Members. I further swear and affirm that if I am nominee, I am not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. I understand and have complied with the prohibitions concerning pledges as established in the selection guidelines.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Bar Number

SWORN TO BEFORE me this      day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires:

**Certification of Proper Election of Circuit Public Defender  
Selection Panel Members**

I, \_\_\_\_\_, hereby swear and affirm that the election of panel members for \_\_\_\_\_ County's seats on the \_\_\_\_\_ Circuit's Public Defender Selection Panel were conducted in accordance with the Uniform Guidelines for the Selection of Circuit Public Defenders. I further swear and affirm that all votes were counted in an open and public process and that those elected to the panel had the proscribed plurality of votes, and that all voters and nominees were in fact eligible to vote and had certified in writing their eligibility.

\_\_\_\_\_  
Signature of the Individual  
Authorized to Conduct the Election

\_\_\_\_\_  
Bar Number

SWORN TO BEFORE me this      day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires:

**Uniform Guidelines for Nomination of a Circuit Public Defender by a Selection Panel**  
(Revised and republished 4-25-2008)

**I. Responsibilities of the Circuit Public Defender Selection Panel**

Pursuant to SC Code Section 17-3-510, each Circuit Public Defender Selection Panel is responsible for nominating a person to serve as the Circuit Public Defender for their circuit. Each selection panel shall:

1. Convene the first meeting at a convenient time and place, designated by the executive director of SCCID in consultation with all panel members, within ten (10) days of all panel members being elected.
2. Each member of a Selection Panel, before assuming his or her duties thereon, shall execute the following Oath and immediately return it by regular mail to SCCID to the attention of Hugh Ryan, General Counsel (P.O. Box 11433, Columbia, SC 29211):

As a member of the       Judicial Circuit Public Defender Selection Panel, I acknowledge that I am not pledged to vote for any applicant or potential applicant, and that I will not do so throughout my term as a panel member; that I will comply with the Uniform Guidelines and Procedures for nominating a Circuit Public Defender; and that in all deliberations I will execute my duties fairly, impartially and objectively to insure the nomination of the most qualified applicant.

(Form of this Oath for members to sign is included in these Guidelines)

3. Elect a chairman and a secretary of the Selection Panel and transmit by regular mail or fax these names along with mailing and email addresses to SCCID General Counsel.
4. Follow Robert's Rules of Order in conducting all meetings and in the selection of the panel's nominee.
5. Upon receipt of the applications from SCCID the Panel shall interview all applicants. The Panel may also seek references and take such steps as they feel are necessary to insure the most qualified candidate is elected to the position of Circuit Public Defender.
6. The Panel shall make the selection of Circuit Public Defender within 30 days of receiving the applications from SCCID. Any extension of time may be granted only by the Executive Director of SCCID for good cause.

7. By a majority vote of its membership, select and forward to SCCID the circuit nominee for Circuit Public Defender. The Selection Panel shall also forward to the Commission all relevant materials used in the selection and a certification signed by all members of the panel (see attached form) that the nomination process was properly conducted in a fair, impartial and objective manner.

II. Responsibilities of the Office of the South Carolina Commission on Indigent Defense

1. SCCID will draft a standardized job description to be used in all advertisements for the Circuit Public Defender position.
2. SCCID will post the position through the Office of Human Resources (www.scjobs.com) and will advertise the position in a manner reasonably calculated to alert interested candidates, as soon as practical after the first (organizational) meeting of the Selection Panel.
3. Notify the SC Employment Security Commission and the State Career Center of the Office of Human Resources of the available position and comply with all relevant laws and regulations including SC Code section 8-11-120, 8-11-230 and State HR Regulations 19-703.
4. Provide in the position advertisement that applications may be submitted online or mailed to the Office of SCCID on the standard state application form (available online or through SCCID) along with any additional information the applicant wishes to provide.
5. Provide that the time period for receiving applications will not be less than twenty (20) days from the date of the initial posting on the state's human resources site.
6. SCCID will review the applications to insure all applicants meet the statutory qualifications for the position and provide to the Selection Panel a SLED criminal background check for each applicant.
7. Upon completion of the review process all applications and supporting material will be forwarded by SCCID to the Chairman of the Selection panel.
8. If a nominee is rejected by the Commission, SCCID will repost and advertise the position as outlined above.

III. Responsibilities of the Commission on Indigent Defense

1. At the next scheduled commission meeting after receipt of a nomination or at a time established by the Chairman, the Commission shall by majority vote accept

or reject the nomination but may not substitute the name of another person.(17-3-510(C)) The Commission may interview any nominee and consider any materials used in the selection process by the Selection Panel, in its discretion.

2. The Commission shall notify the nominee and the chairman of the Selection Panel of the Commission's vote on the nomination.
3. If the nominee is accepted the Commission shall oversee an oath taking ceremony for each Public Defender, to be held at a convenient time, at a courthouse in the nominee's circuit.

#### **IV. Complaint procedures concerning Circuit Public Defender elections.**

1. Complaints regarding alleged improper acts or omissions in the election of members to a Circuit Public Defender Selection Panel and in the selection of a nominee Circuit Public Defender by a selection panel must be made in writing and provided to the General Counsel for the Commission on Indigent Defense within 10 days of discovery of any alleged improper activity. Complaints will remain confidential between complainant, SCCID General Counsel and the SCCID Executive Director pending presentment to the Commission.
2. The complaint shall list specific facts supporting each and every claim of impropriety.
3. The complaint shall list the name, address and telephone number of each and every witness complainant is aware of that has information concerning the facts of the matter.
4. The Commission has the authority to request that the general counsel interview all material witnesses. Witnesses may be asked to appear before the Commission however witnesses who are not also the complainant cannot be compelled to appear.
5. The Commission will take such action as it deems appropriate or take no further action after review of complaint.
6. If requested complainant (this includes any witness acting as complainant) will appear before the Commission and be prepared to answer questions concerning any allegations.
7. The complainant will not address or have any third party address the issues with individual members of the Commission. Any correspondence, communication, etc., shall be to the General Counsel of the agency, Hugh Ryan. (P.O. Box 11433, Columbia, SC 29211) (803)734-1338. [hryan@sccid.sc.gov](mailto:hryan@sccid.sc.gov)

Oath of Public Defender Selection Panel Members

As a member of the \_\_\_\_ Judicial Circuit Public Defender Selection Panel, I acknowledge that I am not pledged to vote for any applicant or potential applicant, and that I will not do so throughout my term as a panel member; that I will comply with the Uniform Guidelines and Procedures for nominating a Circuit Public Defender; and that in all deliberations I will execute my duties fairly, impartially and objectively to insure the nomination of the most qualified applicant.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Bar Number

SWORN TO BEFORE me this      day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires:

**Each member of a Selection Panel, before assuming his or her duties thereon, shall execute the above Oath and immediately return it by regular mail to SCCID to the attention of Hugh Ryan, General Counsel (P.O. Box 11433, Columbia, SC 29211)**



# SCCID Voucher Payment Policy



## SCCID Voucher Payment Policy

Adopted by the Commission September 25, 2007, with subsequent revisions  
*Please refer to the Order of the SC Supreme Court dated September 29, 2006, and memorandums of Chief Justice Toal, dated July 6, 2005, and July 8, 2005, all of which can be accessed at [www.sccid.sc.gov](http://www.sccid.sc.gov)*

### I. Appointment of Counsel

- a. Attorney Registration: Every attorney who represents or expects to represent an indigent client pursuant to court appointment must personally register on line with SCCID, at its website [www.sccid.sc.gov](http://www.sccid.sc.gov) and be approved and issued an attorney password. This registration is for the attorney and payee information and does not have to be repeated when the attorney registers a case. (When filling out Payee portion of voucher on line, Payee information must be identical in name, social security number or Federal ID number as submitted on the W-9, or the system will reject the voucher).
- b. Case Registration For Appointed Counsel: Upon appointment by the court in an indigent case or proceeding, counsel must notify the Office of Indigent Defense (OID) within 15 days of the appointment by registering the case online at [www.sccid.sc.gov](http://www.sccid.sc.gov) Additional documentation may be required by OID. Every court appointed case must be registered even if the attorney does not intend to apply for payment of attorney fees and/or expenses. (In addition to being an electronic voucher processing system, the system is also the exclusive data collection and tracking system for all indigent defense cases).
- c. Payment: Vouchers, time sheets and any other supporting documentation for payment must be submitted online through the Indigent Defense website. They may be mailed directly to OID only if electronic access is not available. Vouchers must be received by OID in correct form no later than thirty (30) days after the services are completed. Vouchers should not be mailed to the Clerk of Court for transmittal. The Clerk of Court is no longer required to sign off on a voucher. Detailed invoices for any experts, investigators, translators, and other outside services must also be submitted, and may be submitted by fax or regular mail. The website contains the appropriate fax numbers.

Voucher  
Payment

In accordance with S.C. Code Section 17-3-310(G) (2), S.C. Code Section 17-3-340(I)(9), and other applicable statutes, rules of court, regulations and any other authority that may apply, the South Carolina Commission on Indigent Defense reaffirms its longstanding policy that all attorneys when seeking payment for indigent services shall disclose to SCCID monies or compensation of any type received from any source. This shall include but is not limited to funds received from the defendant, funds received from any source on the defendant's behalf, and funds from any other source received by counsel appointed to the case. This shall specifically include any funds paid by or on behalf of an attorney and/or law firm to a substitute counsel for assuming the appointment of a case. Funds received by counsel from any source including those described above shall be considered compensation for representation of the indigent client, and the amount of reimbursement by SCCID shall be reduced by the amount of funds paid by a defendant, or by any person on defendant's behalf including any and all funds received from a previous attorney for current counsel agreeing to assume an appointment. By action of the Commission on November 19, 2012, this reaffirms existing policies and procedures that are required for completion, filing and payment of a voucher as set forth on the voucher form.

- d. If there is no objection to the reasonableness of the request and the amount requested is within the hourly rates and statutory caps, OID is authorized to make payment of the requested amount without further action of the Court. However any expense whether below the statutory cap or not must have prior approval of the trial court.
- e. If there is an objection by OID to the reasonableness of the amount, the amount requested exceeds the hourly rates or statutory caps or if for some other reason OID determines the voucher is not in order, OID will notify the trial court and counsel of any objection and will forward the voucher, timesheet and any other submitted materials to the trial court in writing or electronically. Upon submission of the documentation the trial court may determine the matter with or without a hearing in its discretion. OID will then pay such amount as the trial court may authorize.
- f. OID, along with S.C. Court Administration, subject to the approval of the Chief Justice or the Supreme Court, may establish such additional procedures for the electronic award of fees and costs to minimize delay

and to facilitate the administration of the Indigent Defense Chapter of the Code.

- g. OID will notify counsel of all actions taken on a voucher. If a voucher is forwarded by OID to the trial court for approval, the trial court will also notify the attorney and OID of its actions.
- h. Nothing herein shall preclude the trial court from taking immediate action on *ex parte* requests for fees and costs during the pendency of a case as may be authorized by statute or court rule.
- i. Authorization to Exceed Rates/Caps: Pursuant to Memorandum of Chief Justice Toal, dated July 6, 2005, and S.C. Code Ann. Section 17-3-50(C) (2003), payment of attorneys fees in excess of the statutory amount is allowed if the circuit court “certifies, in a written order with specific findings of fact, that payment in excess of the rates is necessary to provide compensation adequate to ensure effective assistance of counsel.” Because Section 17-3-50(C) does not provide for *ex parte* proceedings to determine attorney’s fees, hearings on requests for additional fees should be held in open court.

Further, whether or not additional fees are necessary to ensure effective assistance of counsel is an issue that should be determined with reference to the facts of a particular case. Payment in excess of the statutory rates should not be authorized as a matter of course for all appointed cases or for all of a particular attorney’s appointment cases.

- j. Advance of Funds : (See also Section VII) The policy of SCCID is not to advance funds except in extraordinary instances, such as court approval, witness travel and lodging costs. Pursuant to Memorandum of Chief Justice Toal, dated July 8, 2005 and S.C. Code Ann. Section 17-3-50(B) (2003), when requests for investigative, expert, or other services in excess of the statutory limits are received, circuit court judges should closely examine the need for the services, especially when approval for advance costs are requested. Rather than seeking advance expenses counsel should seek authorization for incurring expenses for a specific reason and up to a specific amount. When authorized by the Court, OID will need only the order, the invoice for services rendered, and the electronic voucher submission in order to process the payment.

In determining whether additional fees are reasonable and necessary, judges should require the requesting party to show that there is a substantial factual basis for the contention the party seeks to prove by the use of the services and that the services are integral to the building of an effective defense. In addition where the party seeks funding for services of a particular provider, the party should be required to show why the services must be provided by that particular provider. Judges may ask OID to participate in the hearing on a request for additional expenses or legal fees to contribute information concerning expenses and legal fees awarded in similar cases.

- k. Transcripts: The court reporter's fee for providing the transcript of the trial proceeding may be reimbursed only after direct submission by the court reporter of a letter of transmittal showing the case name and number, the nature of the proceeding, the reporter's name, address, and social security number, a copy of the written request for transcript, a copy of the order of appointment of the requesting party as counsel and a completed court reporter's bill (Form SCCA DI-4). Provision of transcripts and billing rates are to conform to the guidelines set out in Rule 508, SCACR, and are applicable to state court reporters as well as independent court reporters. Only the cost of one (1) original or one (1) copy of any transcript per defendant, regardless of the number of counsel, may be reimbursed out of the defense fund.

## **II. Fees of Appointed Counsel**

- a. Statutory maximum limits are as follows (Provisos are authorized in each FY Appropriations Act):

Case Type	Attorney Fees	In Court	Out of Court	Expenses	Authority
Death Penalty	\$25,000 each	\$75.00	\$50.00	\$20,000	SC Code 16-3-26
Felony	\$3,500	\$60.00	\$40.00	\$500.00	SC Code 17-3-50 and Proviso 47.4*
Misdemeanor	\$1,000	\$60.00	\$40.00	\$500.00	SCACR 602(a)
Post Conviction Relief	\$1,000	\$60.00	\$40.00	\$500.00	SC Code 17-27-60 and Proviso 47.4*
Termination of Parental Rights	\$2,000	\$50.00	\$50.00	\$500.00	Proviso 47.4*
Abuse and Neglect	\$2,000	\$50.00	\$50.00	\$500.00	Proviso 47.4*
Probate Commitment	\$2,000	\$50.00	\$50.00	\$500.00	Proviso.47.4*
Sexual Violent Predator	\$2,000	\$50.00	\$50.00	\$500.00	Proviso 47.4*

\* Provisos are found in the State's annual Appropriations Act.

- b. Appointed counsel must electronically submit a Defense of Indigents Voucher and time sheet that specifies the time spent in-court and out-of-court with an explanation as to the nature of the services rendered. In computing time, "In-court" time is that time for which appointed counsel is required to be present the courtroom and appears before a judicial officer for the purposes of a particular case to which counsel has been appointed. "In court" time includes jury qualification and roll calls that pertain specifically to the client's case. "Out-of-court" time is any time spent by counsel in the preparation of a case and includes: plea negotiations, travel time, research, interviews, observing co-defendants' trial and time spent waiting for a trial or hearing to begin. If waiting for multiple trials or hearings for one or more defendants to be held on the same day, counsel may only bill once for the time spent waiting. Time spent on a case whether "in-court" or "out-of-court" must be the actual time spent in the particular activity computed to the nearest one-tenth (.1) of an hour. "Fixed Time" for activities will not be allowed. Examples of fixed time are ".5 hours" for every letter written, ".25 hours" for all telephone calls, etc. The activity claimed must be actually performed by the attorney. **Counsel may not claim time spent by clerical personnel preparing documents.**

### **III. Reimbursable Expenses for Appointed Counsel**

There is a \$500 limit on expenses in all civil and criminal cases, except capital cases, in which the limit is \$20,000. These limits may not be exceeded unless the court certifies, **prior to any expense being incurred**, in a written order with specific findings of fact that such excess is both reasonable and necessary to insure adequate representation in the particular case. (See Chief Justice Toal's Memo dated July 8, 2005) SCCID will not provide funds for payments in amounts in excess of the prior authorization. Claims for necessary expenses must be submitted with the order approving the expenditure, setting out the total amount allowed and copies of invoices documenting the claims. By submitting the voucher for payment, counsel certifies that the services were performed and that the amount is fair and reasonable. Necessary expenses are those deemed to be reasonable and essential for a proper defense. The following are deemed to be necessary expenses, subject to limitations in Section IV.

- a. Fees for expert witnesses and investigators, subject also to provisions of Section V.
- b. Costs of scientific tests or exhibits for trial demonstration.
- c. Costs of psychiatric examination.
- d. Extraordinary travel expenses. (Out of county of appointment, with prior approval.)
- e. Long distance telephone calls (Prior approval is not required, but bills or itemized affidavits setting out dates and actual costs must be submitted with the voucher. Estimated costs may not be submitted.)
- f. Subpoena charges.
- g. Deaf or foreign language interpreters.

#### **IV. FEES AND EXPENSES THAT WILL NOT BE PAID**

- a. Any expenses incurred which the court did not previously approve prior to being incurred.
- b. Expenses that are considered to be normal operating or overhead costs of a law firm such as staff personnel, secretary or employed paralegal time. These overhead items are deemed to be included in the attorney fee rates.
- c. Copies for staff members or for “in-house” administrative purposes.
- d. Fees for time billed as in-court time which was expended waiting for a trial or hearing to begin; conferences with defendants; witnesses; and solicitors in the courthouse; travel to and from court; and observation of co-defendants’ trials. These examples are regarded as out-of-court time.
- e. In non-capital cases, fees and expenses for any attorney other than appointed counsel, and in capital cases, fees and expenses for any attorney other than the appointed first chair and second chair.
- f. Long distance telephone bills, which are estimated or rounded off, including fees or costs for using a facsimile machine or



computer. A copy of the bill or an affidavit setting out the actual costs must accompany the voucher. Charges for the use of a fax machine other than the long distance charges are not allowed.

- g.** Mileage is paid only for extraordinary travel and is reimbursable only for travel outside the attorney's county of appointment upon approval, or circuit if by contract and only at the current state mileage rates.(the current state mileage rate is 44.5cents per mile) Where the court has found it necessary to appoint an attorney from outside the county of appointment, mileage and travel time will not be paid if the attorney maintains an office in the county of appointment or for some other reason has a connection with that county thereby placing the attorney on that county's appointment list. This also applies if the attorney has contracted with SCCID to render indigent defense services. No payment for mileage or travel time will be allowed where the attorney has volunteered to be appointed or solicited appointment. Mileage within the county of appointment is not reimbursable. Where the attorney maintains an office in another county or has solicited or volunteered for the appointment, neither mileage nor time for travel between the attorney's office and the county of appointment shall be reimbursed. Absent special circumstances, if a vehicle is rented for case-related travel, reimbursement will be for the lesser of the cost of the rental vehicle plus gasoline or the mileage reimbursement at the current state rate. A receipt for rental car expenses is required. Credit card receipts or statements will not be accepted.
- h.** Fees for time billed as travel time from the attorney's primary office to another county in which counsel has an office, the existence of which resulted in the attorney being appointed to a case in that county because the attorney maintained an office there.
- i.** Meals are reimbursable at the current state rate and will be reimbursed only when it was necessary for the attorney to travel out of the county of appointment and remain overnight. Attorneys must provide a detailed listing of the departure and return times to establish which meals will be reimbursed.

- j.** Charges for entertainment, cover charges, and alcoholic beverages will not be reimbursed. Meals provided for or consumed at meetings between counsel, witnesses, experts or other staff personnel will not be reimbursed.
- k.** Lodging is reimbursable as provided in Proviso 72.25 of the 2007-2008 Appropriations Act, at the current CONUS rate, as published by the U.S. General Services Administration. (See [www.sccid.sc.gov](http://www.sccid.sc.gov) or [www.gsa.gov](http://www.gsa.gov) for lodging rates for all cities in the US including SC cities.) Incidentals such as room service, tips, telephone charges, etc., are not reimbursable.

  - l.** Non service type expenses such as eyeglasses, hearing aids, orthopedic devices, etc. However, examinations for these problems may be paid if they relate to the defense of an individual.
  - m.** Time spent preparing and seeking approval of the Defense of Indigents Voucher for fees and expenses and for opening and closing a file will not be reimbursed. Activities occurring after the end of a case will be carefully examined for necessity.
  - n.** Time expended in travel and mileage where an attorney has solicited the appointment to represent the defendant. This does not include situations where a judicial officer has appointed an attorney outside the county of appointment because of a lack of qualified attorneys in that county. It applies to situations where the attorney has solicited the appointment. The appointed attorney will be treated as if residing within that county or having an office located there.
  - o.** Fees generated prior to the date of appointment to the case unless specifically authorized by the court with prior notice to SCCID of attorney's motion or intent to seek such payment.
  - p.** Compensation to lay witnesses for their time or expenses except under extraordinary circumstances.
  - q.** Trial Attendance by Investigators, Experts and Mitigation Specialists will be compensated only for attending portions of a

trial when their presence is necessary, and as long as the services provided are within the amount pre-authorized for their service. Attendance for an entire trial will not be compensated, unless there are extraordinary circumstances and the attorney of record obtains prior approval.

- r. OID will not compensate for any investigator whose license is not valid or current throughout the term of employment in the case, or who is unlicensed.
- s. Continuing Legal Education costs, including specialized seminars and conferences will not be paid by SCCID.

#### **V. EXPERT FEES, INVESTIGATORS, ETC.**

These policies apply to the use of Expert Witnesses, Psychiatrists, Psychologists, Investigators, Paralegals, Mitigation Experts, Jury Consultants, and other individual services rendered to indigent defendants for which the Commission on Indigent Defense is expected to provide funds. Payments will be made only to the Attorney of Record or the Defender Offices and not to the individual provider. In order for funds for payment to be disbursed, the provider must meet the following requirements:

1. The provider of services must have a separate business address and Taxpayer Identification Number from the attorney or attorneys of record or the Public Defender's Office, and an independent investigator must be properly licensed according to South Carolina law and the license must be current and in good standing during the period of employment in the case. Payment for use of "in-house" employed staff as investigators or paralegals is not allowed. The hourly rate paid for attorney services is intended to reflect and include office overhead.
2. The use of the provider must be approved by court order prior to the services being provided and such request must state with specificity the reason for the use and the anticipated services as they apply to the individual case. Approval may not be granted *nuc pro tunc* except where provided by statute.

3. The voucher requesting reimbursement for expert's services must be accompanied by an invoice for such services detailing what services were actually performed, and that the invoice is fair and reasonable. Such statement need not divulge case or defense sensitive information but must account for the provider's time, rates and expenses other than stating only the totals for each activity.

## **VI. REIMBURSEMENT FOR EXPENSES**

All requests for expenses must be approved **prior** to being incurred. Failure to have expenses pre approved will result in non-payment. Bills, statements, invoices or other documentation must be submitted to substantiate all requests for reimbursement of all expenses.

## **VII. ADVANCED APPROVAL OF FUNDS**

**(See Memorandum of Chief Justice Toal, dated July 8, 2005)**

The policy of SCCID is not to advance funds to cover expenses except in extraordinary instances, such as court approved witness travel and lodging costs. Rather, the attorney should seek court approval of authorization of specific expenses to be paid by OID upon submission of vouchers and invoices showing that the services were performed; and no further order of the court for payment will be needed.

Payment of either expenses or fees is allowed only under the provision of SCACR 602(g)(1). Unless otherwise set out in the order, advanced payments of attorneys fees will not be made prior to the end of the trial stage of the case, except in extraordinary circumstances. Failure to provide the required documentation and accounting records will result in no payments being made in the case or to the attorney. Any funds advanced shall be subject to periodic accounting.

SCCID must process all requests for payment through the State Comptroller General's Office and the State Treasurer then issues checks. This may create a delay in obtaining payment since the administrative requirements of each agency must be satisfied. OID makes every effort available to expedite

voucher processing through the agency, but please be aware of this potential delay in receiving funds when submitting vouchers.

**ALL VOUCHERS MUST BE RECEIVED BY OID IN CORRECT FORM NOT LATER THAN THIRTY (30) DAYS AFTER SERVICES ARE COMPLETED.**

**If you have a questions or your concern is not specifically addressed here, please call SCCID at 803-734-1343**

# SCCID Investigator Policy



## SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

### Capital and Non-Capital Investigator Policies

(Adopted by Commission February 19, 2009)

- I. SCCID will maintain a list of approved investigators that agree to adhere to investigator policies and rates established by SCCID. In order to receive payment from SCCID an investigator must be on the list of approved investigators maintained by SCCID and adhere to the following policies and regulations.
  - a. Investigators must meet and continue to adhere to all SLED licensing requirements and policies pertaining to private investigators.
  - b. SCCID must be provided proof that investigator is licensed by SLED prior to being placed on approved list. SCCID must be immediately notified of any change in status concerning SLED licensing. SCCID must be notified of any criminal or civil action brought against investigator in any federal, state or local jurisdiction.
  - c. The investigator must have a separate business address and taxpayer identification number from the attorney of record.
  - d. Investigators shall receive a maximum of \$50 per hour for work performed.
  - e. Investigators shall not charge both an hourly rate and flat fee for the service of subpoenas and other documents. SCCID assumes any flat fee service rate includes service time, mileage and any other cost associated with document service. When deciding to bill on an hourly or flat fee rate investigator agrees to select the method resulting in lowest cost to SCCID.
  - f. All investigative activities must be conducted in conformity with the instructions of the attorney with whom the investigator is working. It is the role of the attorney to determine the scope of the investigation, as well as the degree, nature and duration of the investigator's involvement.
  - g. The investigator is the agent of the attorney and the attorney shall adhere to Rule 5.3 of the South Carolina Rules of Professional Conduct pertaining to responsibilities regarding non-lawyer assistants. All bills, invoices, etc. for services rendered shall be submitted for review by the attorney for whom the investigator is working prior to submission to SCCID. The attorney as supervisor of the investigator shall insure the investigator bill is proper and that SCCID is only being billed for necessary services authorized by the attorney.

Investiga  
Policy





# Rule 608 Contract Program Procedures and Guidelines



## Rule 608 Contract Implementation Procedures and Guidelines

1. SCCID will provide notice regarding the commencement of the application process to include the suspense date for applications to be submitted. The application, contract, and Order of the Chief Justice can be found at [www.sccid.sc.gov](http://www.sccid.sc.gov) by clicking on the blue box "Rule 608 Contract Info"

2. The Application will be posted on the SCCID website **during the window of time that applications will be accepted. A sample** along with a copy of the proposed contract **will also be posted on the SCCID website.** Please review the proposed contract for the compensation amounts, caseload, and other specific issues relating to the contract system. The contract provides in detail the specifics of the program. Please also review the Order of Chief Justice Toal dated November 2, 2012 which provides further program details and the role of the clerk of court in assigning cases.

3. **Applicants for a 608 Contract must meet the following requirements to be considered for a contract:**

- a. Be a member in good standing with the SC Bar
- b. Have at least three (3) years of experience handling cases in the area(s) you are applying for a contract (Criminal, Family Court, etc.)
- c. Willing to comply with the terms of the 608 Contract.
- d. Have and maintain malpractice insurance coverage. Provide proof of coverage no later than May 1.

4. Applications will be filled out online. **SCCID will accept applications for contracts for the upcoming fiscal year beginning March 1 of each year and ending on March 31. These dates may be adjusted if they fall on a weekend day. As applications are received Beginning April 1 of each year,** the a selection panel will meet to review the applications and set up interviews with applicants as deemed necessary. The selection panel for **civil Family Court** matters will include designated SCCID agency personnel, a designated employee of the SC Bar, and the SCCID Commissioner appointed as the family law designee. The PCR/SVP/Criminal panels will include SCCID representatives, Circuit Defenders (for SVP **and Criminal Conflict** matters only), and one of the SCCID Commissioners appointed as criminal defense law designee.

Rule 608  
Contract

4. ~~5.~~ SCCID will contact each contract awardee regarding execution and commencement of the contract **between May 15 and June 1 of each year.**

~~5.~~ ~~6.~~ Upon execution of the contract, SCCID will forward the ~~name of the attorney~~ **approved list of 608 Contract Attorneys for the year** to the Clerk of Court for the County in which the work is to be performed. The Clerk will ~~add the attorney to the appropriate list~~ **use the list for the fiscal year beginning July 1 to June 30** and assign cases as provided by the Order of the Chief Justice.

## **SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE**

### **Minutes for**

#### **COMMISSION MEETING**

10:30 a.m., May 18, 2018

**Location:** Conference Room, SC Commission on Indigent Defense, 1330 Lady Street, Columbia, SC

**Members Present:** Hon, Edward B. Cottingham, Billy Epps, Jack Howle, Jr. (phone), Sen. Gerald Malloy (phone), Yvonne Murray-Boyles (phone), John Nichols, Ashley Pennington (phone), Hon. Daniel Pieper (phone), Walker Willcox (phone)

**Members Absent:** Harry Dest, Ashlin Potterfield, Rep. Murrell Smith

**Staff Present:** Hugh Ryan, Herverly Young, Lawrence Brown, Lori Frost, Rodney Grizzle

There being a quorum, the Vice Chair called the meeting to order.

**Introduction of New Commission Member:** Director Ryan informed the Commission that Chief Justice Pleicones had taken a position with a law firm and had resigned from the Commission to avoid any potential conflict. He informed the Commission that Chief Justice Beatty appointed former Justice Daniel Pieper to the Commission. The members of the Commission welcomed Justice Pieper.

**Approval of Minutes:** A motion was made to approve the minutes of the February 23, 2018 quarterly meeting and the April 17, 2018 Special Meeting. That motion was seconded and passed by unanimous vote.

**Oversight Committee Update:** Director Ryan outlined the procedure for the legislative oversight process. He informed the Commission that Rep. Hixon had suggested that members of the Commission be provided with information and training regarding their duties as Commission members. He stated that Mr. Young had put together a resource manual outlining the Agency's structure and the responsibilities of the Commissioners which will be distributed to the members. Mr. Ryan stated that the next hearings for the Agency in the oversight process will be full-day work session August 14, 2018 and another full-day hearing with the Circuit Public Defenders on August 28, 2018.

**Budget Update:** Mr. Ryan and Sen. Malloy updated the Commission on the current status of the budget process. Mr. Ryan outlined changes in budgeting for the 2018-19 fiscal year. Mr. Ryan informed the Commission that because the Agency has been conservative in its fiscal planning and at this point, SCDSS cases have not increased in the volume expected, the Agency has funds remaining, which can only be spent for 608 contracts. The Agency recommended that the Commission approve an increase of \$50 per case, raising Family Court, Post-Conviction Relief, and SVP cases to \$900 per case and criminal cases to \$1000 per case. Those increases would become effective July 1, 2018 and remain in place subject to availability of funds. The

compensation amount stated in the 608 contracts would not change, so that if funds should not continue to be available to fund the increased amounts, that shortfall would not affect the contracts. A motion to approve the compensation adjustment as outlined and recommended was made, seconded and passed by unanimous vote.

**Rule 608 Contracts Update:** Mr. Young outlined recommended changes to the Rule 608 Procedures and Guidelines to promote consistency and to insure that applicants have the necessary experience to provide effective representation and that they are properly insured.. (Copy attached) A motion to approve the recommended changes was made, seconded, and approved by unanimous vote.

**Public Defender Training Update:** Mr. Brown informed the Commission that Public Defense 102 had been held in March and Public Defense 103 was held at the end of April in Greenville. Both workshops were very successful, and the revised curriculum for PD103 provided the participants with much more practice time in trial settings. Mr. Brown stated that the second Juvenile Defender Workshop in conjunction with the Children's Law Center was held April 13. In addition, the Southern Juvenile Defender Center Regional Summit will be held at the USC Law School June 8 and 9, and ties in with the Agency's juvenile defender training program.

**Externship Update:** Mr. Young informed the Commission that 12 applications were received for externship positions, but 2 later withdrew. The 10 remaining applicants were placed with public defender offices to serve their externships.

**SCCID/DSS Appointment of Counsel Study:** Mr. Ryan and Mr. Young provided information about studies that are being performed across the State in SCDSS cases to determine what causes delays in appointment of counsel and possible solutions to expedite assessment for and appointment of counsel in those cases.

**Employee Performance Management System:** Mr. Ryan informed the Commission that the Agency has now implemented an employment management system in accordance with State requirements. Mr. Ryan and Ms. Frost provided information on the basis structure of the system.

There being no further business, a motion to adjourn was made, seconded and passed, and the meeting adjourned at noon.

Respectfully submitted,

Lawrence Brown  
Deputy General Counsel



## **QUARTERLY COMMISSION MEETING**

10:30 a.m., Friday, May 18, 2018  
1330 Lady Street, Suite 401  
Columbia, SC 29201

### **AGENDA**

- I. Call to Order**
- II. Introduction of New Commission Member – Hon. Daniel F. Pieper**
- III. Approval of Minutes – February 23, 2018 Meeting; April 17, 2018 Special Meeting**
- IV. Standing Items/Old Business**
  - a. Oversight Committee Update**
  - b. Public Defender Training Update**
  - c. Rule 608 Contracts Update**
  - d. Externship Update**
  - e. Budget Update**
- V. New Business**
  - a. SCCID/DSS appointment of counsel study**
  - b. EPMS (Employee Performance Management System)**
- VI. Executive Session**
- VII. Next Meeting Date: August 17, 2018**
- VIII. Adjournment**

## **SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE**

### **Minutes for**

### **EMERGENCY SPECIAL COMMISSION MEETING**

9:00 a.m., April 17, 2018

**Location:** Conference Call, SC Commission on Indigent Defense, 1330 Lady Street, Columbia, SC

**Members Present:** Harry Dest, Jack Howle, Jr., John Nichols, Ashley Pennington, Ashlin Potterfield, Rep. Murrell Smith

**Members Absent:** Hon. Edward Cottingham, Billy Epps, Sen. Gerald Malloy, Yvonne Murray-Boyles, Walker Willcox

**Staff Present:** Hugh Ryan, Hervery Young, Lawrence Brown

There being a quorum, the Chair called the meeting to order.

**Circuit Public Defender – 5<sup>th</sup> Circuit:** Douglas Strickler, Circuit public Defender for the Fifth Judicial Circuit passed away on Friday, April 13, 2018. Mr. Strickler had planned to retire effective May 1, 2018, so steps were already underway to fill the position upon his retirement. The position had been advertised as required, and the Fifth Circuit Public Defender Selection Panel had completed its work regarding the applicants and submitted its recommendation to the Commission. The Commission was informed that the Fifth Circuit Public Defender Selection Panel had nominated Fielding Pringle to serve as Circuit Public Defender. Because of the death of Mr. Strickler, the position needs to be filled immediately to insure the smooth transition and operation of the Public Defender's Office. A motion to go into Executive Session to consider the personnel matter. Following executive session, a motion was made to accept the nomination and to appoint Fielding Pringle as Circuit Public Defender effective April 17, 2018. The motion was seconded and approved by unanimous vote.

There being no further business, a motion to adjourn was made, seconded and passed, and the meeting was adjourned.

Respectfully submitted,

Lawrence Brown  
Deputy General Counsel

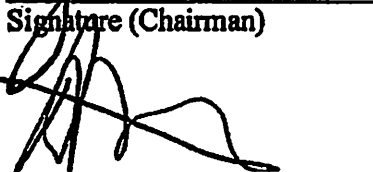


**Certification of Nomination of Circuit  
Public Defender**

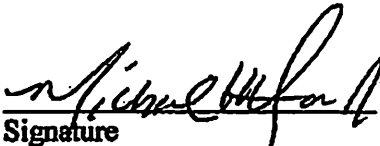
The 5<sup>th</sup> th Circuit's Circuit Public Defender Selection Panel, by a majority vote of its membership, hereby nominates Fielding Pringle to be the Circuit Public Defender for the 5 th Judicial Circuit of South Carolina. This Panel swears and affirms that the Selection Panel has at all times followed the Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels and Uniform Guidelines for Nomination of a Circuit Public Defender by a Selection Panel.

  
\_\_\_\_\_  
Signature (Chairman)

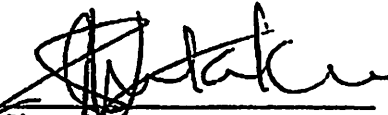
03760  
\_\_\_\_\_  
Bar Number

  
\_\_\_\_\_  
Signature (Secretary)

12983  
\_\_\_\_\_  
Bar Number

  
\_\_\_\_\_  
Signature

68272  
\_\_\_\_\_  
Bar Number

  
\_\_\_\_\_  
Signature

17009  
\_\_\_\_\_  
Bar Number

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Bar Number

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Bar Number

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Bar Number

## **SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE**

### **Minutes for**

#### **COMMISSION MEETING**

**10:30 a.m., February 23, 2018**

**Location:** Conference Room, SC Commission on Indigent Defense, 1330 Lady Street, Columbia, SC

**Members Present:** Harry Dest, Hon. Edward B. Cottingham, Jack Howle, Jr., Yvonne Murray-Boyles (phone), John Nichols, Ashley Pennington, Hon. Costa Pleicones, Ashlin Potterfield, Doug Strickler, Walker Willcox (phone)

**Members Absent:** Billy Epps, Sen. Gerald Malloy, Rep. Murrell Smith

**Staff Present:** Hugh Ryan, Hervery Young, Lawrence Brown, Lori Frost, Rodney Grizzle, Boyd Young

There being a quorum, the Chair called the meeting to order.

**Approval of Minutes:** A motion was made to approve the minutes of the November 17, 2017 quarterly meeting. That motion was seconded and passed by unanimous vote.

**Election of Officers:** Mr. Ryan explained the statutory requirement to elect a chairman for a two-year term. He also explained that the Commission has traditionally elected a vice-chairman to serve a one-year term. After discussion, a motion was made to nominate Harry Dest as Chairman. That Motion was seconded. With no further nominations, Mr. Dest was elected chairman for the next two years by unanimous vote. A motion was made and seconded to nominate John Nichols as vice chairman. With no further nominations, Mr. Nichols was elected vice chairman for the next year by unanimous vote.

**Family Court Standards Update:** Mr. Young reminded the Commission that the Children's Law Center has approached that agency about forming a committee to create standards for attorneys handling abuse and neglect cases in Family Court. The committee has now held two meetings to go through the ABA standards to determine what will best work for South Carolina. Another meeting is planned for March to finalize a set of standards for South Carolina that can then be fine tuned.

**Public Defender Training Update:** Mr. Brown informed the Commission that Public Defense 101 had been held in November with 33 Participants and was successful. Public Defense 102 is scheduled for the first week in March in Columbia and Public Defense 103 is scheduled for the end of April in Greenville. In addition, planning is underway for the second in an ongoing series of Juvenile Defender Workshop to be held April 13. In addition, Mr. Brown is working with the Southern Juvenile Defender Center on their regional summit which will be held at the USC Law School in June, and which ties in with the agencies juvenile defender training program. Mr. Dest inquired about the revisions to the PD103 program, and Mr. Pennington informed him

that the committee has made significant progress in making that program more meaningful and useful for the participants.

**H4830 Indigency Screening Bill:** Mr. Ryan updated the Commission on the requirements that the bill would impose. The bill would put indigency screening on the Department of Probation, Parole and Pardon Services, which would be similar to the Federal system. A pilot plan is proposed for six counties. At this time, no cost-benefit analysis has been conducted.

**Oversight Committee Update:** Mr. Ryan briefed the Committee on the history and procedure of the Legislative Oversight Committee, and the preparations that the agency is making for the oversight process.

**Proposed Changes to Statutes:** Mr. Ryan presented several suggested changes to statutes regarding the agency. (Copy attached) Most of the suggested changes are cleanup matters for duplicative, obsolete, or antiquated provision. Chief Justice Pleicones questioned the proposed removal of Section 17-3-20 regarding appointment of counsel in murder cases, since no other code section fully addresses the matters covered there. A motion to approve all suggested revisions except for Section 17-3-20. That motion was seconded and passed by unanimous vote.

**Budget Matters:** Mr. Ryan discussed the current status of agency funding and the needs that currently require attention. He stated that the only increased funding request for this year is \$127,000.00 for IT funding required by State contract.

Mr. Ryan explained that last year judges received an additional \$500 per month in expense money, and that this year, a similar increase was approved for Solicitors and Circuit Public Defenders.

Mr. Ryan explained that in 2003, a \$500 public-defender fee was approved on probationary sentences to provide funding for public defender offices. Those funds were divided between the public defenders and the conflict fund. Now fewer of those funds are required for conflict cases, but Public Defenders' expenses are increasing. The conflict fund has available funds which can be used to fund the needs of the Public Defender offices, but the Director needs discretion to shift unobligated funds from the conflict fund to the public defender offices as appropriate. A motion was made to grant the Director that authority. That motion was seconded and approved by unanimous vote.

Mr. Ryan explained that while the number of DSS cases has increased during the past year, the number of 608 vouchers actually decreased. Assuming the current track continues, the agency is on pace this year for a \$2.9 million surplus in 608 funds, which can only be used for that purpose. A portion of those funds could be used to provide a temporary increase in payments to attorneys of contract cases. A motion was made to increase voucher payments by \$50 each for all cases filed from March 1 through June 30, 2018 subject to funding availability. That motion was seconded and approved by unanimous vote.

**Rule 608 Contracts:** Mr. Young informed the Commission that 608 Contract Attorney applications for FY 2018-19 will be accepted from March 1 to March 30, 2018. Decisions on the contracts are expected to be made by May 15, with orientation for new attorneys in June, so

the will be prepared to start July 1. Mr. Young explained that the contract system has been very stable with few complaints.

**Externship: Charleston School of Law:** Mr. Young informed the Commission that he is going to Charleston School of Law on March 22 to do a professionalism seminar, and efforts continue to get more students involved going to rural areas of the state to provide assistance to public defender offices. The biggest hurdle facing the Externship is the lack of any salary or stipend to cover housing or expenses which would allow more students to participate. Currently participants just receive course credit for their participation.

**Statement of Economic Interest Filing Reminder:** Members were reminded that they must file their annual statements of economic interest online by March 30, 2018.

**Dayne Phillips:** Mr. Nichols recused himself from any discussion of participation in this matter. Mr. Phillips, a 608 contract attorney, had written a letter to Chairman Dest requesting assistance in resolving a situation with his former employer regarding payment for his contract case appointments. Mr. Phillips addressed the Commission. He had requested that his 608 contract payments be made to The Jeffcoat Firm, his employer at the time. When he left the firm, the firm kept those funds, but he remained responsible for resolving many cases that remained open at that time, which would require significant additional work for which he would not be compensated, which would create a severe economic hardship on him. Mr. Phillips is in disagreement with the firm over whether portions of the fees should be considered to be unearned so that the firm should not have a right to retain them. He requested guidance from the Commission in resolving the situation. Mr. Phillips conceded that determining the earned vs. unearned portion of fees in the cases might be difficult since he no longer has access to the case management system he used to track the cases at the firm.

**Executive Session:** A motion was made to go into executive session to discuss the contractual and legal matters. That motion was seconded and passed by unanimous vote. Upon return to regular session, no action was taken on any matter discussed in Executive Session.

There being no further business, a motion to adjourn was made, seconded and passed, and the meeting adjourned at noon.

Respectfully submitted,

Lawrence Brown  
Deputy General Counsel

<b>Law Change Recommendation</b>	
Law	17-3-20 <b>Appointment of counsel for indigents charged with murder; compensation</b>
Summary of Current Law	Court must appoint qualified and experienced counsel to represent person charged with murder who is financially unable to retain adequate attorney. Attorney shall be paid appropriate fee and costs determined by court.
Agency's Rationale for Revision	Eliminate Duplicative: §§ 17-3-45 and 17-3-50 provide for appointment of counsel for felony charges, which include murder.
Agency's Law Recommendation Number from PER	1
Agency's Recommended Language	<del>SECTION 17-3-20. Appointment of counsel for indigents charged with murder; compensation.</del> <del>In the event any person who shall be charged with murder shall, after investigation by the court, be determined to be unable financially to retain adequate legal counsel, the court shall appoint such qualified and experienced counsel to defend such defendant in the trial of the action.</del> <del>Such appointed counsel shall be paid such fee and costs as the court shall deem appropriate.</del> <del>HISTORY: 1962 Code § 17-281.1; 1974 (58) 2361.</del>
Presented and Approved by Board/Commission	
Other agencies potentially impacted	None

<b>Law Change Recommendation</b>	
Law	17-3-30 Affidavit of inability to employ counsel; payment of indigent's assets to state; application fee, waiver or reduction of fee; disposition of revenues; fund for screening applicants
Summary of Current Law	Provides for person applying for appointed counsel to file affidavit setting forth assets and pay \$40 fee; fee may be waived or reduced; how fee to be collected, handled and used.
Agency's Rationale for Revision	Eliminate Duplicative: Language of this section is included in § 17-3-45.
Agency's Law Recommendation Number from PER	2
Agency's Recommended Language	<p><del><b>SECTION 17-3-30.</b> Affidavit of inability to employ counsel; payment of indigent's assets to state; application fee; waiver or reduction of fee; disposition of fee revenues; fund for screening applicants.</del></p> <p><del>(A) A person to whom counsel has been provided shall execute an affidavit that he is financially unable to employ counsel and that affidavit must set forth all his assets. If it appears that the person has some assets but they are insufficient to employ private counsel, the court, in its discretion, may order the person to pay these assets to the general fund of the State.</del></p> <p><del>(B) A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the application fee. If the clerk or other appropriate official determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation. The clerk of court or other appropriate official shall collect the application fee imposed by this section and remit the proceeds to the state fund on a monthly basis. The monies must be deposited in an interest bearing account separate from the general fund and used only to provide for indigent defense services. The monies shall be administered by the Office of Indigent Defense. The clerk of court or other appropriate official shall maintain a record of all persons applying for representation and the disposition of the application and shall provide this information to the Office of Indigent Defense on a monthly basis as well as reporting the amount of funds collected or waived.</del></p> <p><del>(C) Sufficient funds shall be set aside from allocations provided for the defense of indigent to provide for adequate screening of applications for indigent assistance to ensure the applicant is qualified.</del></p> <p><del>HISTORY: 1962 Code § 17-282; 1969 (56) 374; 1977 Act No. 219 Pt II § 19; 1988 Act No. 356, § 1; 1993 Act No. 164, Part II, § 45E; 1994 Act No. 497, Part I, E23 § 14; 1995 Act No. 145, Part IB, E23 § 14; 1996 Act No. 458, Part II, § 26B; 1999 Act No. 100, Part II, § 17; 2007 Act No. 108, § 4, eff June 21, 2007.</del></p>
Presented and Approved by Board/Commission	
Other agencies potentially impacted	None

<b>Law Change Recommendation</b>	
Law	17-3-40 Creation of claim against assets and estate of person for whom counsel is provided
Summary of Current Law	Appointment of counsel creates a claim against the assets and estate of the person for whom counsel is provided. Claim may be filed, but does not constitute lien unless reduced to judgment by court.
Agency's Rationale for Revision	Eliminate Duplicative: Language of this section is included in § 17-3-45.
Agency's Law Recommendation Number from PER	3
Agency's Recommended Language	<p><del>SECTION 17-3-40. Creation of claim against assets and estate of person for whom counsel is provided.</del></p> <p><del>(a) The appointment of counsel, as hereinbefore provided, creates a claim against the assets and estate of the person who is provided counsel in an amount equal to the costs of representation as determined pursuant to Sections 17-3-50 and 17-3-80, less that amount that the person pays to the defender corporation of the county or counties wherein he is being represented or the judicial department as provided for in Section 17-3-30.</del></p> <p><del>(b) Such claim shall be filed in the office of the clerk of court in the county where the person is assigned counsel, but the filing of a claim shall not constitute a lien against real or personal property of the person unless, in the discretion of the court, part or all of such claim is reduced to judgment by appropriate order of the court, after serving the person with at least thirty days' notice that judgment will be entered. When a claim is reduced to judgment, it shall have the same effect as judgments, except as modified by this chapter.</del></p> <p><del>(c) The court may, in its discretion, order any claim or judgment waived, modified or withdrawn.</del></p> <p><del>(d) The Judicial Department shall be responsible for administering this section, and all moneys collected hereunder shall be paid over to the Judicial Department.</del></p> <p><del>HISTORY: 1962 Code § 17-283; 1969 (56) 374; 1977 Act No. 219 Part II § 19; 1988 Act No. 356, § 2.</del></p>
Presented and Approved by Board/Commission	
Other agencies potentially impacted	None

<b>Law Change Recommendation</b>	
<b>Law</b>	<b>17-3-50</b> Determination of fees for appointed counsel and public defenders; maximum amounts; authorization to exceed maximum; payment for certain services
<b>Summary of Current Law</b>	Provides hourly rates and caps for fees paid to private appointed counsel, investigators, experts, etc.
<b>Agency's Rationale for Revision</b>	Modify Requested change would conform language of statute to Budget Provisos 61.1 and 61.4 and clarify language to reflect Agency procedures and policies.
<b>Agency's Law Recommendation Number from PER</b>	4
<b>Agency's Recommended Language</b>	<p><b>SECTION 17-3-50.</b> Determination of fees for appointed counsel and public defenders; maximum amounts; authorization to exceed maximum; payment for certain services.</p> <p>(A) When private counsel is appointed pursuant to this chapter, he must be paid a reasonable fee to be determined on the basis of forty dollars an hour for time spent out of court and sixty dollars an hour for time spent in court. The same hourly rates apply in post-conviction proceedings. Compensation may not exceed three thousand five hundred dollars in a case in which one or more felonies is charged and one thousand dollars in a case in which only misdemeanors are charged. Compensation must be paid from funds available to the Office of Indigent Defense for the defense of indigents represented by court-appointed, private counsel. The same basis must be employed to determine the value of services provided by the office of the public defender for purposes of <del>Section 17-3-40</del> <u>Section 17-3-45</u>.</p> <p>(B) Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment, from funds available to the Office of Indigent Defense, of fees and expenses not to exceed five hundred dollars as the court considers appropriate.</p> <p>(C) Payment in excess of the hourly rates and limits in subsection (A) or (B) is authorized only if the court certifies, in a written order with specific findings of fact, <u>prior to fees or expenses being incurred</u>, that payment in excess of the rates is necessary to provide compensation adequate to ensure effective assistance of counsel and payment in excess of the limit is appropriate because the services <del>provided were reasonably and necessarily incurred.</del> <u>to be provided are reasonable and necessary. If prior approval by written order of the court is not obtained, no additional fees or expenses shall be paid.</u></p> <p>(D) Nothing in this section shall be construed to alter the provisions of Section 17-3-10 concerning those defendants who are entitled to legal representation.</p> <p>HISTORY: 1962 Code § 17-284; 1969 (56) 374; 1993 Act No. 164, Part II, § 45F; 2007 Act No. 108, § 5, eff June 21, 2007.</p>
<b>Presented and Approved by Board/Commission</b>	
<b>Other agencies potentially impacted</b>	None



<b>Law Change Recommendation</b>	
<b>Law</b>	17-3-80 Appropriation for expenses of appointed private counsel and public defenders; restrictions and limitations
<b>Summary of Current Law</b>	Provided additional funding for indigent defense services for FY 1969-70.
<b>Agency's Rationale for Revision</b>	Eliminate This Section reflects language from a fund that was established for FY 1969-70 that is no longer funded. Expenses of appointed counsel and public defenders are addressed in other code sections and budget provisos.
<b>Agency's Law Recommendation Number from PER</b>	5
<b>Agency's Recommended Language</b>	<del>SECTION 17-3-80. Appropriation for expenses of appointed private counsel and public defenders; restrictions and limitations.</del> In addition to the appropriation as provided by law, there is appropriated for the fiscal year commencing July 1, 1969, the sum of fifty thousand dollars for the establishment of the defense fund which must be administered by the Office of Indigent Defense. This fund must be used to reimburse private appointed counsel, public defenders, and assistant public defenders for necessary expenses, not to exceed two thousand dollars for each case, actually incurred in the representation of persons pursuant to this chapter, so long as the expenses are approved by the trial judge. No reimbursement may be made for travel expenses except extraordinary travel expenses approved by the trial judge. The total state funds provided by this section may not exceed fifty thousand dollars. HISTORY: 1962 Code § 17-287; 1969 (56) 374; 1977 Act No. 219 Pt II § 19; 1987 Act No. 142 § 1; 1993 Act No. 164, Part II, § 45G.
<b>Presented and Approved by Board/Commission</b>	
<b>Other agencies potentially impacted</b>	None

<b>Law Change Recommendation</b>	
<b>Law</b>	<b>17-3-85</b> Fiscal year-end disposition of unexpended appropriations for payment of private appointed counsel for counties without public defender corporations
<b>Summary of Current Law</b>	Provides for handling of unexhausted funds appropriated for counties without public defender corporations to pay private counsel.
<b>Agency's Rationale for Revision</b>	Eliminate Redundant: Since the creation of the statewide Circuit Public Defender system in 2007, funds are no longer appropriated for counties without public defender corporations.
<b>Agency's Law Recommendation Number from PER</b>	6
<b>Agency's Recommended Language</b>	<del>SECTION 17-3-85. Fiscal year-end disposition of unexpended appropriations for payment of private appointed counsel for counties without public defender corporations.</del> At the end of each fiscal year all funds appropriated for counties without public defender corporations which have not been exhausted shall be combined into one fund and any and all claims of private appointed counsel in other counties remaining unpaid by virtue of the exhaustion of appropriated funds in those respective counties shall be paid on a pro rata basis until such fund is exhausted or until all claims are satisfied. After payment of the above, any funds remaining at the end of a fiscal year maintained by the Judicial Department shall revert to the general fund of the State at the end of that fiscal year. <del>HISTORY: 1982 Act No. 466, Part II 5-43.</del>
<b>Presented and Approved by Board/Commission</b>	
<b>Other agencies potentially impacted</b>	None

<b>Law Change Recommendation</b>	
<b>Law</b>	17-3-90 Vouchers for payment for services by private appointed counsel and for reimbursement of expenses; approval and submission for payment
<b>Summary of Current Law</b>	Sets forth procedure for approval and submission of vouchers by appointed counsel and public defenders for payment by the Office of Indigent Defense.
<b>Agency's Rationale for Revision</b>	Eliminate Voucher procedures established by Orders of the Supreme Court, budget provisos, and SCCID policies have superseded the procedure set forth in this Section.
<b>Agency's Law Recommendation Number from PER</b>	7
<b>Agency's Recommended Language</b>	<del>SECTION 17-3-90. Vouchers for payment for services by private appointed counsel and for reimbursement of expenses; approval and submission for payment. Private, appointed counsel shall submit a voucher to the Office of Indigent Defense setting forth all details of the appointment for purposes of remuneration pursuant to Section 17-3-50 and reimbursement of expenses pursuant to Section 17-3-80, and the public defender shall do likewise pursuant to Section 17-3-80. It is the duty of the Office of Indigent Defense to present the voucher to the trial judge for approval and to transmit the same to the Comptroller General for payment to the appropriate party.</del> HISTORY: 1962 Code § 17-288; 1969 (56) 374; 1977 Act No. 219 Pt II § 19; 2007 Act No. 108, § 6, eff June 21, 2007.
<b>Presented and Approved by Board/Commission</b>	
<b>Other agencies potentially impacted</b>	None

<b>Law Change Recommendation</b>	
<b>Law</b>	<b>17-3-100</b> Discretionary authority of judge to appoint counsel not limited; remuneration and reimbursement.
<b>Summary of Current Law</b>	Discretionary authority of judge to appoint counsel not limited; remuneration and reimbursement.
<b>Agency's Rationale for Revision</b>	Modify Refers to § 17-3-80 which the Agency recommends be deleted.
<b>Agency's Law Recommendation Number from PER</b>	8
<b>Agency's Recommended Language</b>	<b>SECTION 17-3-100.</b> Discretionary authority of judge to appoint counsel is not limited; remuneration and reimbursement. Nothing herein contained is designed to limit the discretionary authority of a judge to appoint counsel in any case and any such counsel shall be entitled to remuneration and reimbursement as provided in §§ 17-3-50 and <del>17-3-80</del> hereof, so long as funds appropriated herein are available therefor. HISTORY: 1962 Code § 17-289; 1969 (56) 374.
<b>Presented and Approved by Board/Commission</b>	
<b>Other agencies potentially impacted</b>	None

<b>Law Change Recommendation</b>	
Law	17-3-510 Circuit Public Defender Selection Panel; county representation; nomination of Circuit Public Defender; election by South Carolina Prosecution Coordination Commission.
Summary of Current Law	Provides procedure for election of Circuit Public Defenders
Agency's Rationale for Revision	Modify Title of Statute incorrectly states that the Circuit Public Defender is elected by the SC Prosecution Commission
Agency's Law Recommendation Number from PER	9
Agency's Recommended Language	<p><b>SECTION 17-3-510.</b> Circuit Public Defender Selection Panel; county representation; nomination of Circuit Public Defender; election by South Carolina <del>Prosecution Coordination Commission</del> <b>Commission on Indigent Defense.</b></p> <p>(A) There is created in each judicial circuit in the State a Circuit Public Defender Selection Panel, the membership of which is composed of, and must be elected by, the active, licensed attorneys who reside within the counties of each judicial circuit. Each county in each judicial circuit must be represented by at least one member and the remaining members must be determined by equal weighting of county population based on the most recent decennial census and the most recent annual county appropriations to public defender operations according to the following formula:</p> <p>(1) percentage of distribution of population plus the percentage of distribution of appropriations for public defender operations divided by two and rounded to the nearest whole number;</p> <p>(2) the weighted values of each county multiplied by the number of remaining members in each Circuit Public Defender Selection Panel determines the number of additional members each county must have on the panel.</p> <p>Judicial circuits with three or less counties must have five members. Judicial circuits with four counties must have seven members. Judicial circuits with five counties must have nine members.</p> <p>(B) A solicitor, assistant solicitor, an employee of a solicitor's office, or an employee of the South Carolina Prosecution Coordination Commission may not serve as a member of a Circuit Public Defender Selection Panel. Members of a Circuit Public Defender Selection Panel must reside in the judicial circuit in which they serve. Circuit Public Defender Selection Panel members shall serve for a term of five years. A vacancy for an appointed member must be in the same manner of the original appointment filled by the appointing authority.</p> <p>(C) By majority vote of its membership, the Circuit Public Defender Selection Panel shall nominate a person to serve as the circuit public defender in the judicial circuit as provided in this article. The commission shall, by majority vote of its members, accept or reject the nomination, but may not substitute the name of another person. Initial appointments of circuit public defenders must be made in order for the first appointees to take office no later than one year from the effective date of this act, for a term of four years. A circuit public defender may be reappointed by the commission to serve successive terms following the same manner of the original appointment. The circuit public defender for each judicial circuit must be a full-time employee of the State and must be compensated and have the same benefits as the circuit solicitor. A circuit public defender may not engage in the private practice of law or another full-time business for profit.</p>

	<p>(D) A circuit public defender may be removed for cause by a majority vote of the commission.</p> <p>(E) If a vacancy occurs, by death, resignation, or otherwise, in the position of circuit public defender, the commission shall appoint an interim circuit public defender to serve until a replacement has been selected by the commission. The Circuit Public Defender Selection Panel shall nominate a replacement circuit public defender within three months of the occurrence of the vacancy. Selection of a replacement must be in the same manner as the original appointment.</p> <p>HISTORY: 2007 Act No. 108, Section 3, eff June 21, 2007.</p>
Presented and Approved by Board/Commission	
Other agencies potentially impacted	None

**PRICE BENOWITZ LLP**

DAVID BENOWITZ  
ADMITTED DC, MD & VA  
KERRI CASTELLINI  
ADMITTED DC & MD  
KUSH ARORA  
ADMITTED MD & DC  
JOHN YANNONE  
ADMITTED MD & DC  
ADAM ROTH  
ADMITTED NY, DC & MD  
KAREN GUNDERMAN  
ADMITTED MD  
SHAWN SUKUMAR  
ADMITTED DC  
TONY MUNTER  
ADMITTED DC & MA  
\*ROBERT M. SCHWARTZMAN  
ADMITTED MD  
FARRAL HABER  
ADMITTED FL, VA & DC  
MOHSEN ZARKESH  
ADMITTED DC  
MATTHEW WILSON  
ADMITTED MD  
ELIZABETH THOMPSON  
ADMITTED MD  
KELLY HITE  
ADMITTED VA  
MICHELLE KAMINSKY  
ADMITTED VA

1614 TAYLOR STREET  
SUITE D  
COLUMBIA, SC 29201  
OFFICE: (803) 272-4503  
DIRECT: (803) 807-0234  
FAX: (803) 380-8035

DAYNE PHILLIPS  
ADMITTED SC  
SETH PRICE  
ADMITTED DC & NY  
GLENN F. IVEY  
ADMITTED DC & MD  
KARIN RILEY PORTER  
ADMITTED VA  
STEVEN L. DUCKETT, JR.  
ADMITTED VA  
JOEL NIED  
ADMITTED VA, PA & GA  
THOMAS C. SOLDAN  
ADMITTED VA  
SETH OKIN  
ADMITTED MD  
OLEG FASTOVSKY  
ADMITTED MD  
NATALIA SEGERMEISTER  
ADMITTED NY  
MARY NERINO  
ADMITTED VA  
NICHOLAS M. BRASWELL  
ADMITTED VA  
ROCCO COLUMBUS  
ADMITTED VA  
\*ANGIE DIPIETRO  
ADMITTED MD  
\*MEREDITH JIMMERSON  
ADMITTED VA

\*OF COUNSEL

110 NORTH WASHINGTON STREET, SUITE 303  
ROCKVILLE MD 20850

10505 JUDICIAL DRIVE, SUITE 101  
FAIRFAX, VA 22030

**February 19, 2018**

Harry A. Dest, Esq., Chairman  
South Carolina Commission on Indigent Defense  
1675-1E York Highway  
York, SC 29745

Re: **Quarterly Commission Meeting 2/23/18**  
**Request to Add New Business Matter on Agenda**

Dear Chairman Dest:

I am respectfully requesting that a matter be added to the New Business section of the agenda for the Quarterly Commission meeting scheduled on Friday, February 23, 2018. Specifically, I am requesting to address the Commission regarding my 608 Contract.

I left the Michael Jeffcoat Firm on November 1, 2017, and as required, continued representing the twenty-four (24) appointed cases assigned to me. I was a salaried employee, so the checks from SCCID were deposited into the firm's operating account.

After my departure, it appears Michael Jeffcoat has taken the position that all fees received from SCCID were earned by the firm. I have continued to work on these cases without compensation since November 1<sup>st</sup> and most of these cases are serious felony charges (including murder).

[WWW.SCCRIMINALLAWS.COM](http://WWW.SCCRIMINALLAWS.COM)

[WWW.PRICEBENOWITZ.COM](http://WWW.PRICEBENOWITZ.COM)

**Quarterly Commission Meeting 2/23/18**  
**Request to Add New Business Matter on Agenda**  
**February 19, 2018**

The continued representation of these cases without compensation is causing me financial hardship because of the time commitment dedicated to ensuring competent, ethical, and effective assistance of counsel. As proof of my continued representation, I have been able to resolve some of these cases since my departure.

Although I am associated with a law firm, I am essentially a "solo" attorney because there are no other attorneys licensed in South Carolina, and I do not have a paralegal. The primary function of the firm is to assist me with phone calls, accounting, and marketing.

Rule 1.5(f)(5), SCACR, provides "that the client may be entitled to a refund of all or a portion of the fee if the agreed-upon legal services are not provided." The comment to this rule also provides that "all such fees are subject to refund if the lawyer fails to perform the agreed-upon legal services."

SCCID is analogous to the client referenced in the above Rule of Professional Conduct because SCCID paid the fees for these cases. The legal services have not been completed in these cases and there are numerous cases appointed within 90 days of my departure that had minimal legal work completed.

I contacted SCCID General Counsel Hervery Young regarding this issue. Mr. Young discussed this matter with Executive Director Hugh Ryan and it appears Mr. Ryan believes SCCID does not have standing to address this issue.

I am respectfully seeking guidance from the Commission on how to address this matter because I want to uphold my obligations to SCCID and do not want the clients inconvenienced. However, if I am unable to receive any compensation on these cases, it appears that I will be forced to request SCCID appoint a new lawyer to represent these defendants. Thank you for your assistance in this matter.

Sincerely,



---

**Dayne C. Phillips, Esq.**

1614 Taylor Street, Suite D.  
Columbia, SC 29201  
O: 803-272-4503  
C: 803-807-0234  
F: 803-380-8035  
dayne@pricebenowitz.com