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February 24, 2020

### VIA EMAIL

Chief Mark A. Keel  
Chair, Law Enforcement Training Council  
Post Office Box 21398  
Columbia, SC 29221

Director Lewis J. "Jackie" Swindler  
Criminal Justice Academy  
5400 Broad River Road  
Columbia, South Carolina 29212

Dear Chief Keel and Director Swindler:

As part of the oversight of various criminal justice and law enforcement state agencies, the subcommittee is compiling flow charts illustrating the sequence of events in the state criminal justice system. Attached is a copy of the current comprehensive chart and a detailed chart related to part of the corrections sequence. Input from your office on the processes related to training of new law enforcement officers, as well as investigations and arrests by certified law enforcement officers is appreciated.

If your office would like to provide input, please do so before Friday, April 3, 2020. Additionally, the subcommittee welcomes any other input or feedback your office would like to provide. Thank you and your team for your service to the citizens of South Carolina.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward R. Tallon Sr." with a stylized flourish at the end.

Edward R. Tallon Sr.  
Subcommittee Chair

cc: The Honorable Wm. Weston J. Newton  
Law Enforcement and Criminal Justice Subcommittee

What is the sequence of events in the state criminal justice system in South Carolina?

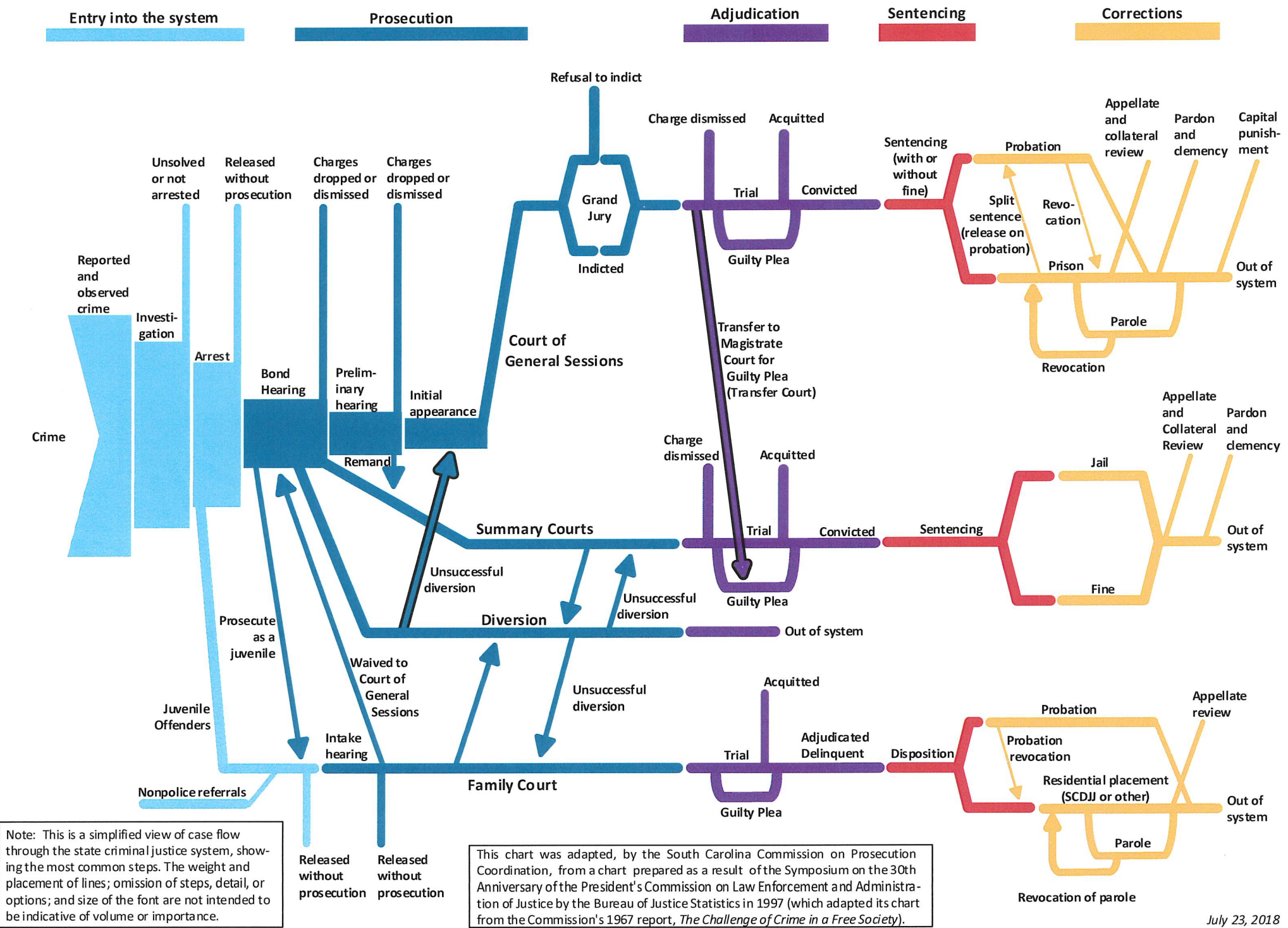


Table 1. Actions required to seek justice in all adult criminal cases, except capital murder.<sup>1</sup>

Adult Criminal Case – All Criminal Cases, EXCEPT Capital Murder		
Step	Actions Required to Move Case Forward <sup>2</sup>	Entity Responsible for the Action
1	Citation, Ticket, or Arrest Warrant	<p>Citation – Citizen requests  Ticket – Law Enforcement issues  Arrest Warrant – (1) Law Enforcement requests, (2) County Magistrate issues (if probable cause exists); and (3) Law Enforcement serves and arrests defendant</p> <p><i>Note: See additional comments in “Warrant Approval” section</i></p>
2	Bond - Initial (within 24 hours of arrest)	<p>Magistrate sets if individual is flight risk or danger to community (amount is at magistrate’s discretion)</p> <p><i>Note: Magistrates cannot set bond for certain charges, including murder (for those, Circuit Court judge must set bond).</i></p>
3	Preliminary Hearing*  <i>*During the hearing the law enforcement officer testifies and Defendant asks questions of the officers to review whether probable cause existed to charge the defendant. Magistrate holding is not determinative (i.e., even if Magistrate finds no probable cause existed, Solicitor may still indict defendant).</i>	<p>Defendant requests within ten days of arrest and Magistrate schedules (no requirement that a defendant request a hearing and if no request, no hearing).</p> <p><i>Note: Once a case is indicted (which requires the grand jury to find that probable cause exists that the defendant committed the crime for which the indictment is sought), a defendant is not entitled to a preliminary hearing.</i></p>
4	Bond Hearing*  <i>*Setting for those charges for which only the Circuit Court can set bond or reconsideration/revocation of a bond set by a Magistrate or by another Circuit judge</i>	<p>Defendant or Solicitor requests hearing  Solicitor schedules hearing  Circuit Court judge decides at hearing</p>
5	Indictment	<p>Solicitor schedules Grand Jury dates  Solicitor submits indictments to Grand Jury</p> <p><i>NOTE: Solicitor do not examine witnesses before the county Grand Juries and are not present during their deliberations or voting</i></p>
6	First Appearance*  <i>*Solicitor provides Defendant discovery, copy of indictment and learns who is serving as attorney for Defendant.</i>	Solicitor schedules
7	Discovery/Pre-Trial Motions  <i>* Discovery is an ongoing process, as is the conduct of pre-trial motion hearings</i>	<p>Solicitor &amp; Defense Attorney conduct discovery (prosecution is entitled to very little discovery)  Motion hearings, if needed, set by Solicitor or Circuit Court</p>
8	Appearance/Roll Calls	Solicitor schedules
9	Status Conference	Solicitor or Circuit Court judge schedules
10	Plea Negotiations (if any)	Solicitor & Defense Attorney conduct
11	Plea Hearing	Solicitor schedules hearing
12	Jury Trial	<p>Process of scheduling trials varies from county to county</p> <p><i>Note: In a few counties, the Chief Administrative Judge schedules trials, in some counties scheduling is a joint effort by the judges and the Solicitor, and in some counties the judge leaves the scheduling of trials to the Solicitors.</i></p>

Table 2. Actions required to seek justice in adult capital murder cases.<sup>3</sup>

Adult Criminal Case - Capital Murder		
Steps	Actions required to Move Case Forward <sup>4</sup>	Entity Responsible for the Action
1	Arrest Warrant	Arrest Warrant - (1) Law Enforcement requests, (2) County Magistrate issues if there is probable cause; and (3) Law Enforcement serves and arrests defendant  <i>Note: See additional comments in "Warrant Approval" section</i>
2	Bond - Initial	Magistrate sets  <i>Note: Magistrates cannot set bond for certain charges, including murder (for those, Circuit Court judge must set bond).</i>
3	Preliminary Hearing*  <i>*A hearing to review whether probable cause existed to charge the defendant.</i>	Magistrate schedules hearing after defendant requests one (there is no requirement that a defendant request a hearing).  <i>Note: Once a case is indicted (which requires the grand jury to find that probable cause exists that the defendant committed the crime for which the indictment is sought), a defendant is not entitled to a preliminary hearing.</i>
4	Bond Hearing*  <i>*Setting for charges for which only the Circuit Court can set bond or reconsideration/revocation of a bond set by a Magistrate or by another Circuit Court judge</i>	Defendant or Solicitor requests hearing Solicitor schedules hearing Circuit Court judge rules on bond at hearing
5	Indictment	Solicitor schedules Grand Jury dates Solicitor submits indictments to Grand Jury  <i>NOTE: Solicitor do not examine witnesses before the county Grand Juries and are not present during their deliberations or voting.</i>
6	Notice of Intent to Seek the Death Penalty	Solicitor files
7	Assignment of Circuit Court Judge	Supreme Court of South Carolina
8	Discovery/Pre-Trial Motions*  <i>* Discovery is an ongoing process, as is the conduct of pre-trial motion hearings</i>	Solicitor & Defense Attorney conduct discovery (prosecution is entitled to very little discovery) Motion hearings, if needed, set by Assigned Circuit Court judge
9	First Appearance	Solicitor or Assigned Circuit Court judge schedules
10	Appointment of Second Attorney	Appointment by Assigned Circuit Court Judge
11	Status Conference	Assigned Circuit Court judge schedules
12	Plea Negotiations (if any)	Solicitor & Defense Attorney conduct
13	Plea Hearing	Assigned Circuit Court Judge schedules hearing
14	Jury Trial	Scheduled by assigned Circuit Court Judge

Table 3. Actions required to seek justice in juvenile criminal cases (crimes and status offenses).<sup>5</sup>

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



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<sup>1</sup> S.C. House of Representatives, House Legislative Oversight Committee, “Letter from SCCPC to Oversight Subcommittee (July 16, 2018),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Prosecution Coordination Commission,” and under “Correspondence,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProsecutionCoordination/Letter%20from%20SCCPC%20to%20Oversight%20Subcommittee%20with%20attachments%20\(July%2016,%202018\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProsecutionCoordination/Letter%20from%20SCCPC%20to%20Oversight%20Subcommittee%20with%20attachments%20(July%2016,%202018).pdf) (accessed July 18, 2018). Chart 3. See also, S.C. House of Representatives, House Legislative Oversight Committee, “July 24, 2018 Meeting Minutes,” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Prosecution Coordination, Commission on,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/LawSub/July%2024,%202018%20-%20Meeting%20Minutes.pdf> (accessed October 3, 2018). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

<sup>2</sup> There are many nuances in legal actions, and the exact steps in any specific case will depend upon the facts in and unique circumstance of that case, as well as the county in which the case is pending, the frequency in which terms of court are held, and the policies or desires of the judges. The information included in this table is intended only as a very general summary of what must or may occur, when such occurs, and who is responsible for the scheduling of the event(s).

<sup>3</sup> S.C. House of Representatives, House Legislative Oversight Committee, “Letter from SCCPC to Oversight Subcommittee (July 16, 2018),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Prosecution Coordination Commission,” and under “Correspondence,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProsecutionCoordination/Letter%20from%20SCCPC%20to%20Oversight%20Subcommittee%20with%20attachments%20\(July%2016,%202018\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ProsecutionCoordination/Letter%20from%20SCCPC%20to%20Oversight%20Subcommittee%20with%20attachments%20(July%2016,%202018).pdf) (accessed July 18, 2018). Chart 4.

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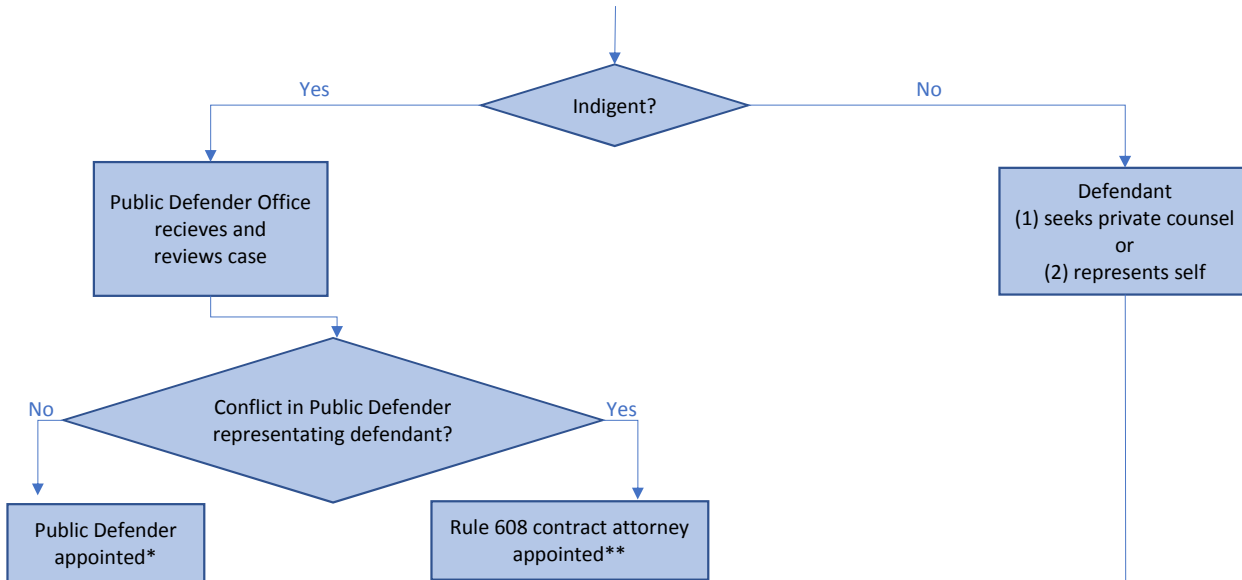
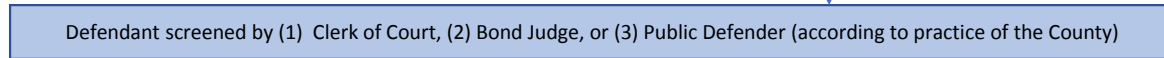
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# Adult Criminal Case, including death penalty - Circuit or Magistrate Court

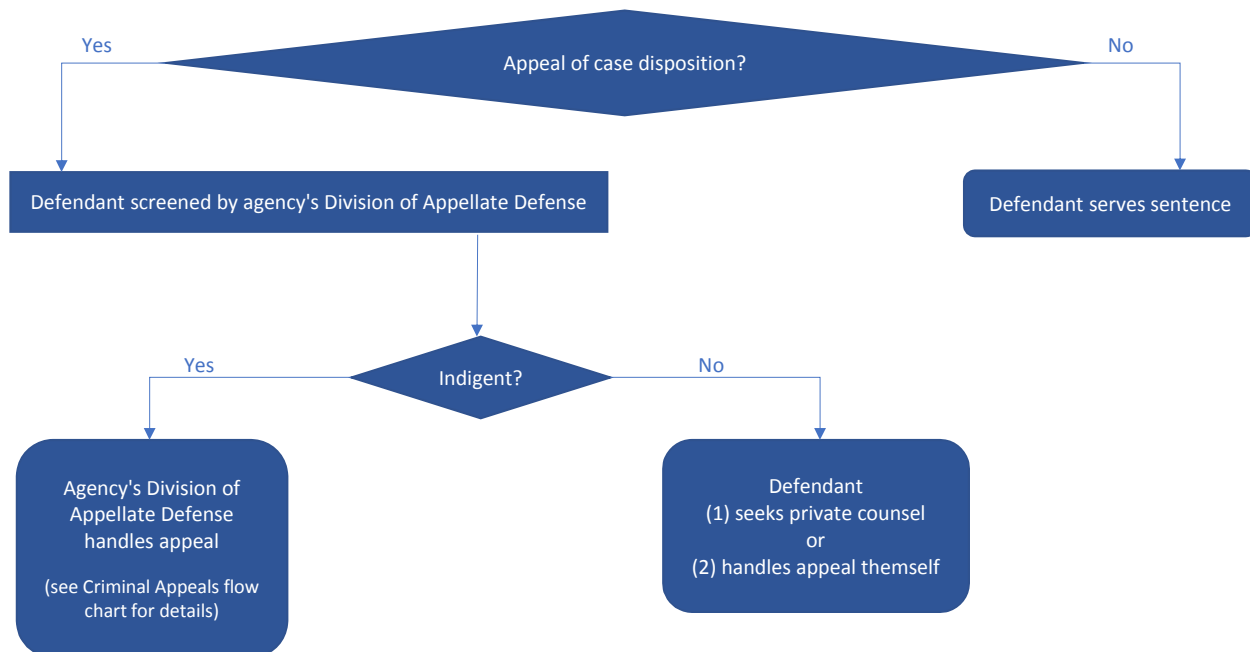
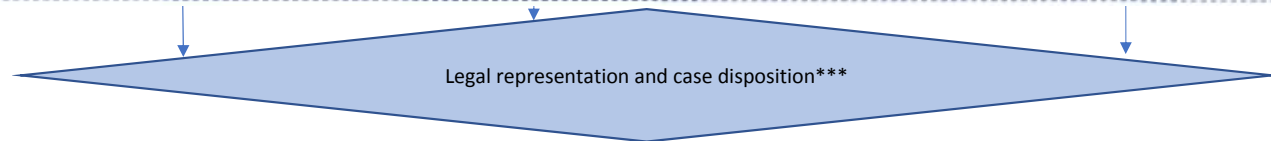
*Indigent defendants right to counsel in criminal cases is granted in the U.S. Constitution.*

## Flow Chart as of June 2018

### Step 1



### Steps 2 - 10



\*If the case involves the Death Penalty, the Capital Litigation Unit can get involved as second counsel to assist the appointed attorney. §16-3-26

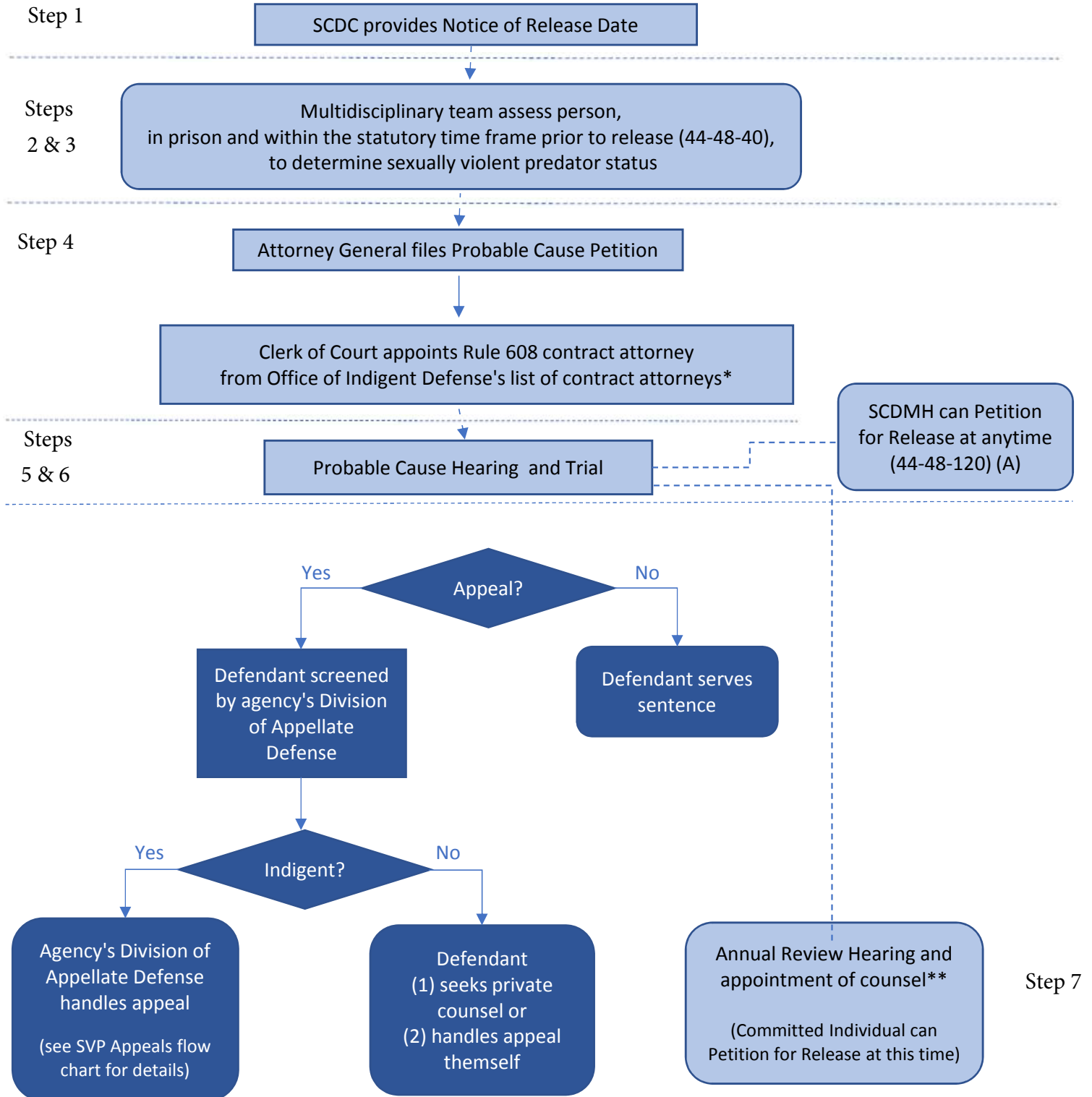
\*\*If the Public Defender office is conflicted, the Capital Litigation Unit will be appointed and the court will appoint a Death Penalty Certified attorney to be second chair. §16-3-26

\*\*\*Case disposition includes: (1) plea or nol proceed (not prosecuting) of some or all charges (i.e., warrants) before trial; (2) plea or nol proceed (not prosecuting) some or all charge (warrants) during trial; (3) judge or jury decision at end of trial.

## Sexually Violent Predator (SVP) Case - Circuit Court

*Indigent defendant's right to counsel in SVP cases is granted in state statute, not the U.S. Constitution.*

Flow Chart as of June 2018



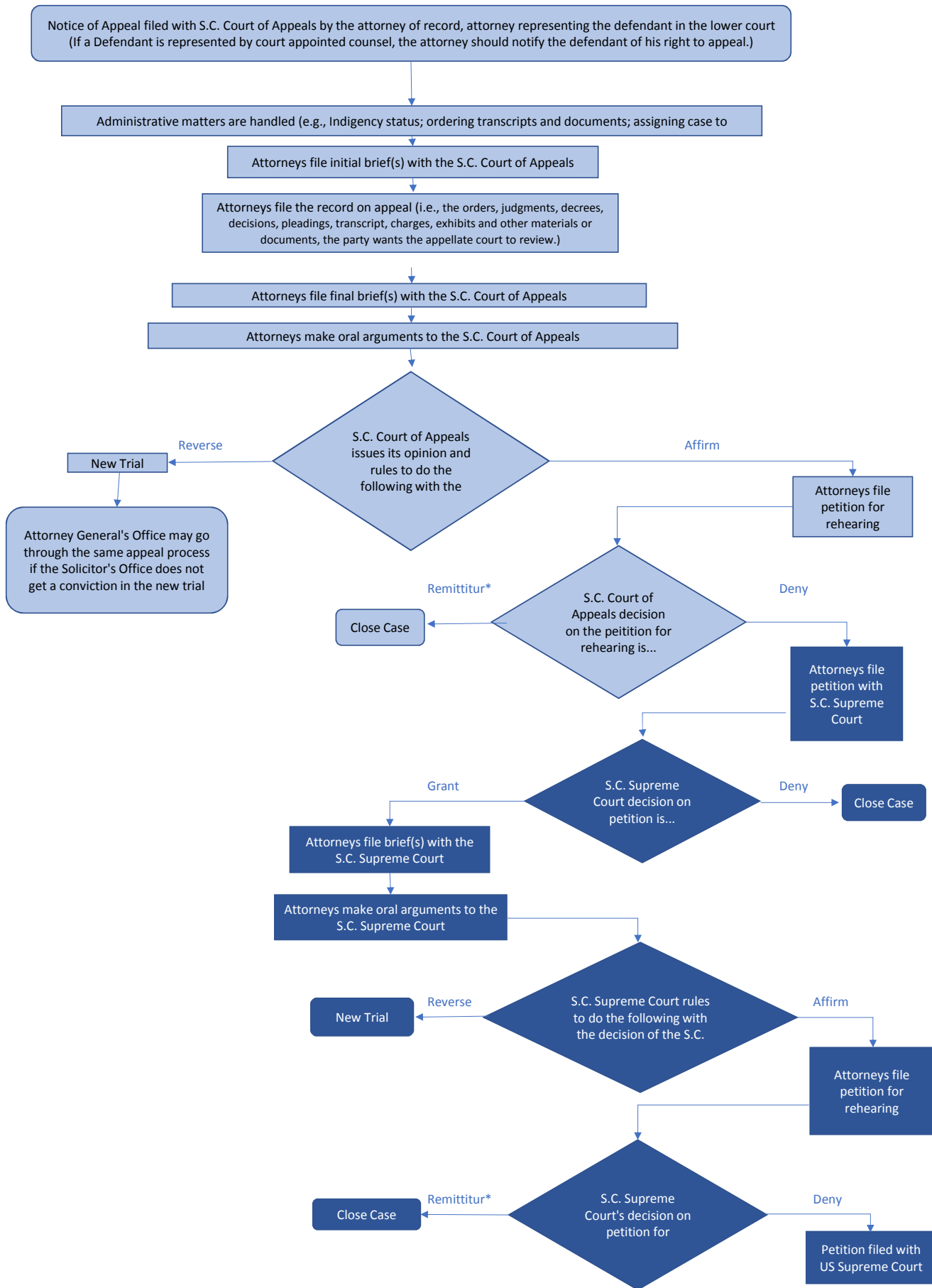
\*§ 44-48-90(B) provides that anyone subject to a SVP case is entitled to the assistance of counsel and if the person is indigent, the court must appoint counsel to assist the person. Because most people are in prison and indigent, appointment of counsel will be automatic upon service of the petition.

\*\*After the probable cause hearing, the clock starts and every year there is a review of the probable cause hearing to determine if probable cause still exists. This annual review may occur prior to conclusion of an appeal.



# Appeals of Adult Criminal Cases and Civil Sexually Violent Predator (SVP) Case

Flow Chart as of June 2018

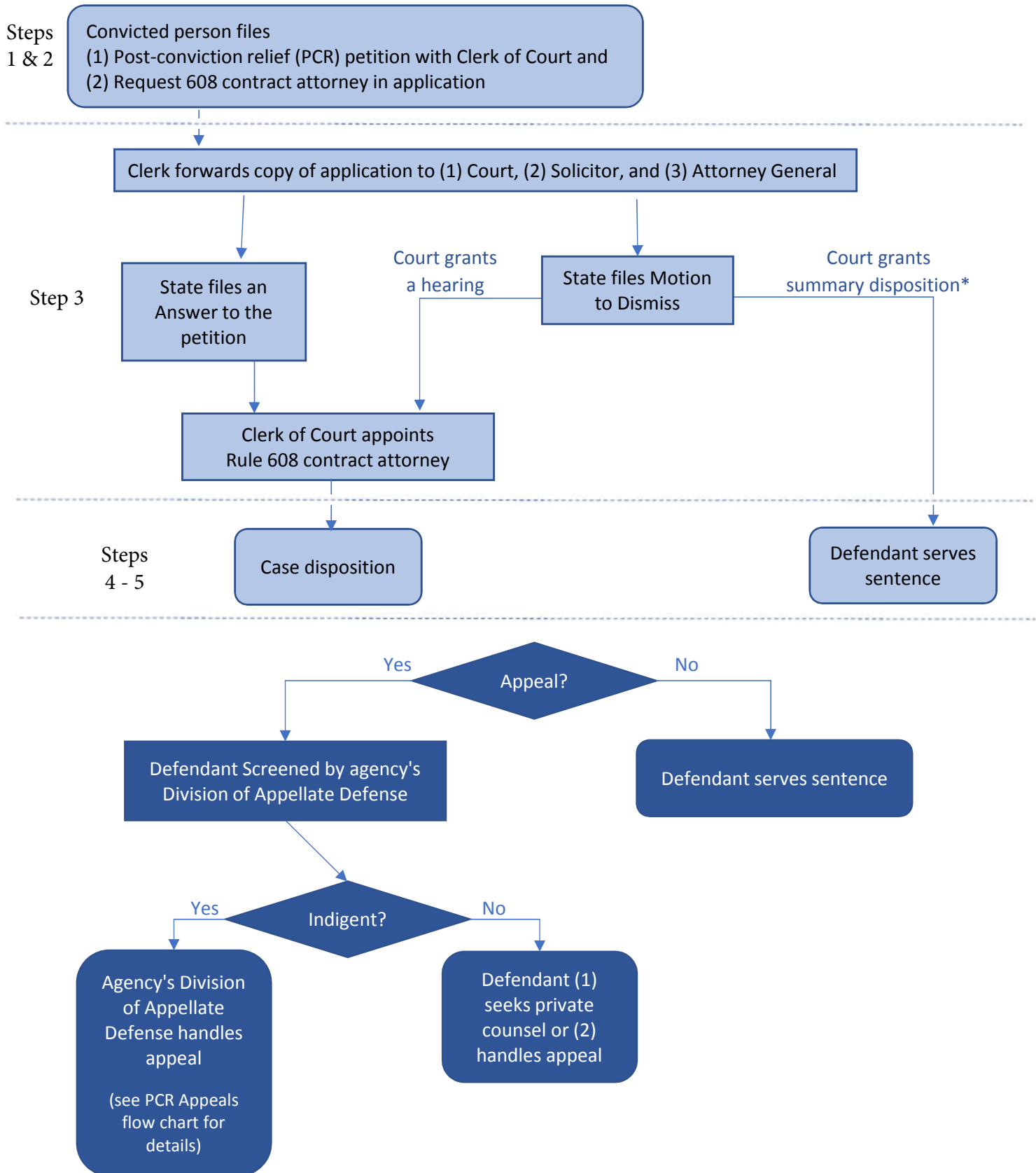


\*Remittitur means the appellate court is sending back the record to the court from which the appeal came so the decision of the lower court may be enforced.

# Post-Conviction Relief (PCR) Case - Circuit, Magistrate, or Municipal Court

*Indigent defendants right to counsel in PCR cases is granted in state statute, not the U.S. Constitution.*

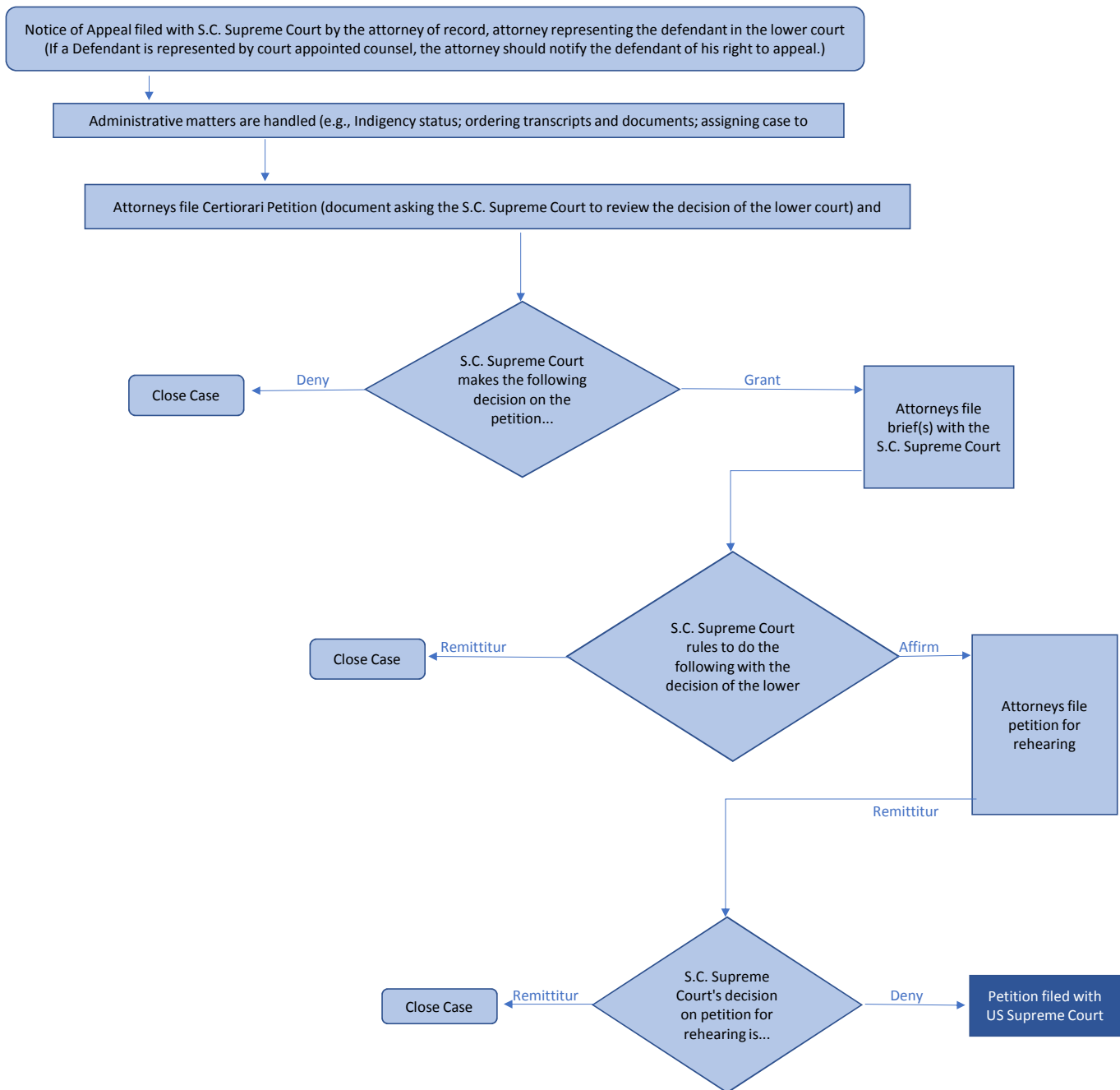
Flow Chart as of June 2018



\*Summary disposition is the court dismissing the petition for post-conviction relief.

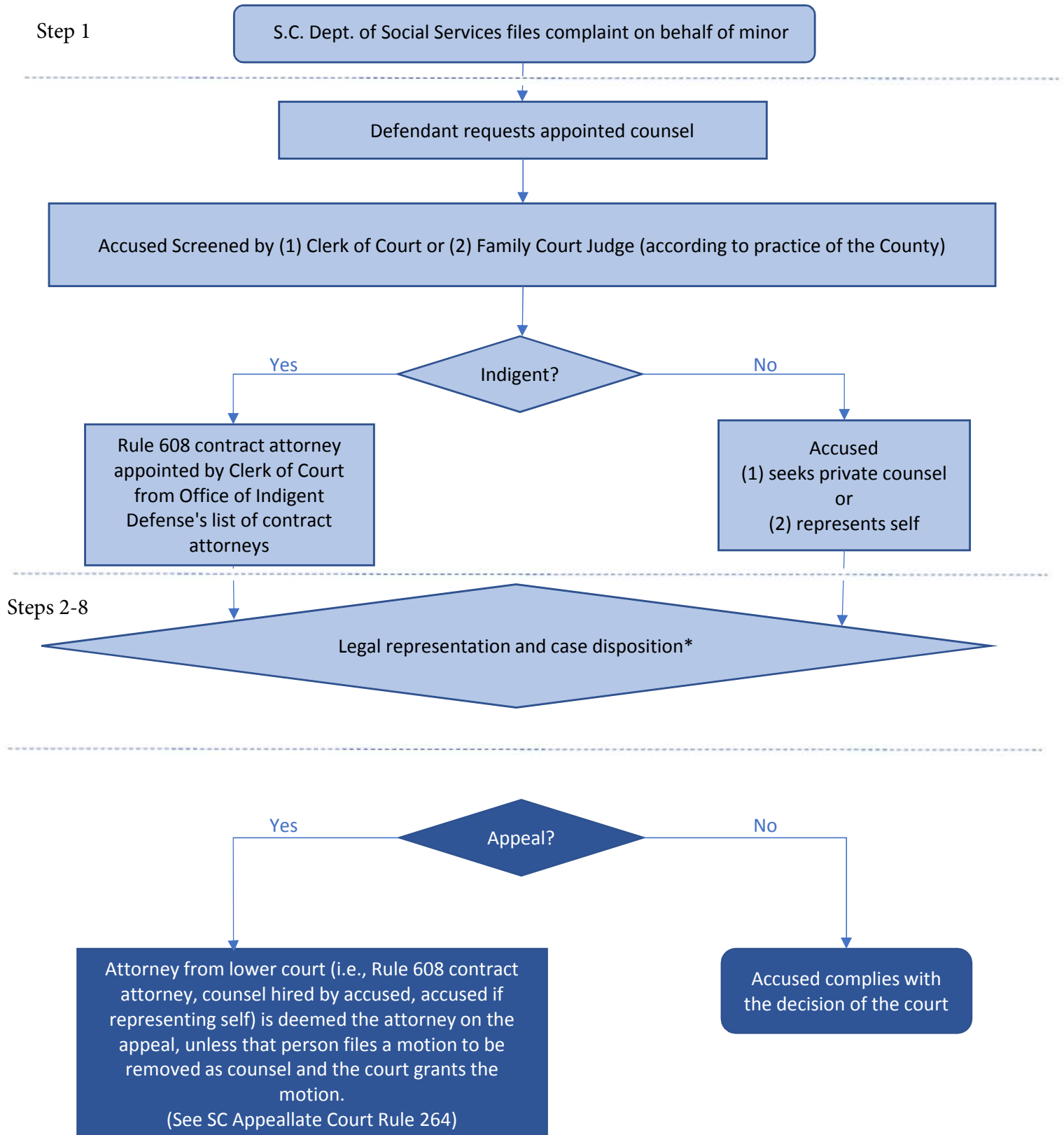
# Appeals of Post-Conviction Relief (PCR) Case

Flow Chart as of June 2018



# Department of Social Services Abuse/Neglect Case - Family Court

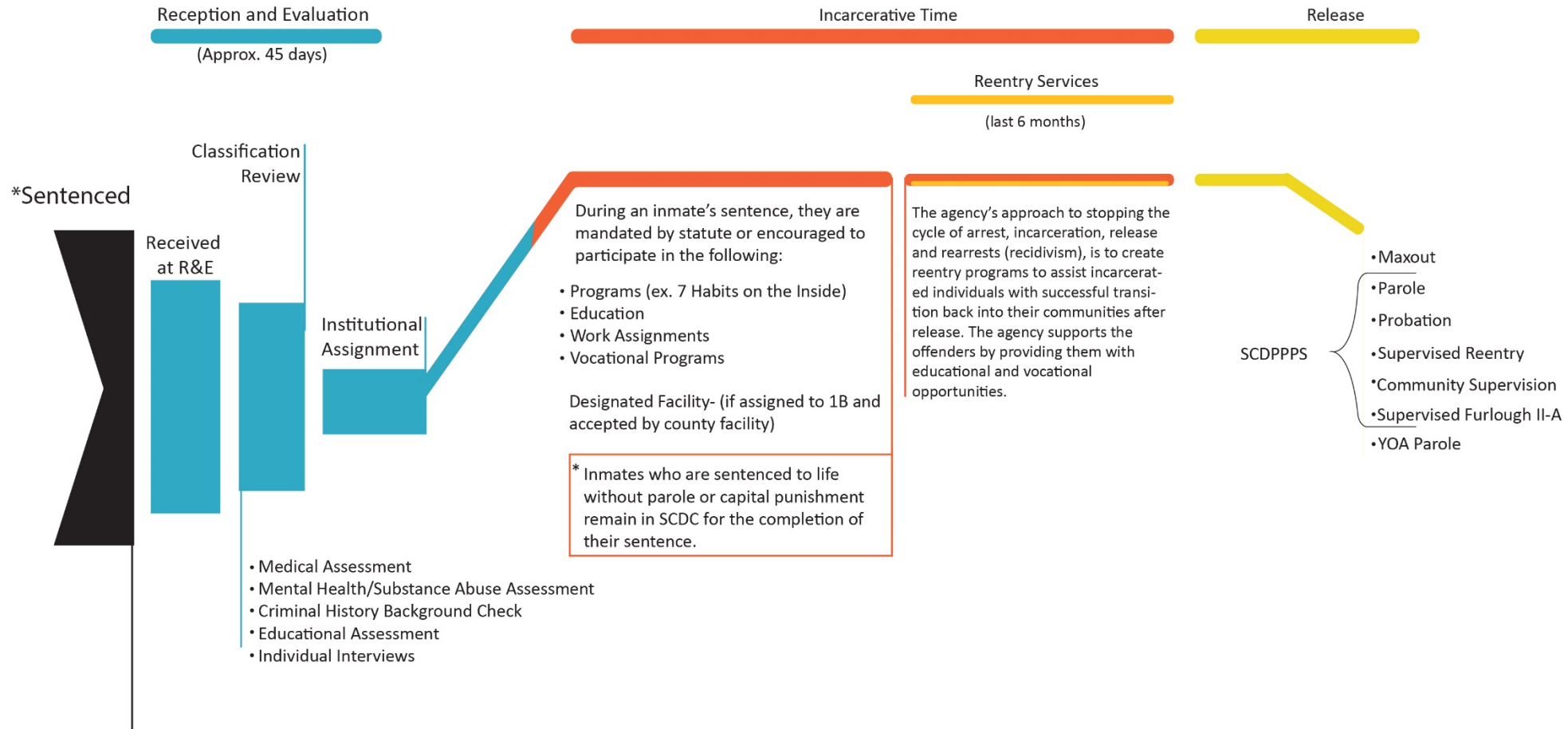
Flow Chart as of June 2018





# Timeline of Inmates

## Time Served



\*Note: List of possible sentences:

- Day for Day
- Regular Parolable Offense
- Capital Punishment
- YOA Sentence

### Acronyms:

YOY- Youthful Offender Act  
R&E- Reception and Evaluation  
SCDPPPS- SC Department of Probation, Parole,  
and Pardon Services