



Caseload Equalization

Funding Request FY 2016-2017



S.C. Commission on Prosecution Coordination

Current conditions in South Carolina

- **First** in the number of women killed by men
- **Sixth** highest violent crime rate in the country
- Domestic Violence accounts for **42 percent** of all violent crime

South Carolina Exceeds National Crime Rates in All but One Category

(Rate per 100,000 residents)

	Violent Crime	Murder/ Manslaughter	Rape	Robbery	Aggravated Assault	Property Crime	Burglary	Theft	Motor vehicle theft
South Carolina	558.8	6.9	35.5	95	421.4	3822.2	954.5	2588.3	279.5
United States	386.9	4.7	26.9	112.9	242.3	2859.2	670.2	1959.3	229.7
	44%	47%	32%	-16%	74%	34%	42%	32%	22%

SOURCE: 2012 crime stats compiled by the Federal Bureau of Investigation

Public safety numbers

114,198 number of new criminal cases filed every year
303 number of prosecutors to handle those cases
376.8 average caseload of each prosecutor

Delays hurt public safety

- The older a case gets, the harder it is to prove
- Victims should have the right to a speedy trial along with defendants
- Criminals get out on bond and hurt more people

Domestic Violence Task Force Findings

62 percent of reporting SC law enforcement agencies require their officers to prosecute their own domestic violence cases. Only three other states allows this practice: New Hampshire, New Mexico and Virginia.

Strategy

To improve the crime rate in South Carolina we must confront the overwhelming caseloads and bring them in line with national standards and averages.

U.S. Department of Justice¹ No more than 150 felonies or 400 misdemeanors (per public defender)

U.S. Department of Justice² Average prosecutor prosecutes 94 felonies per year
 (range is 81-121 depending on size of jurisdiction)

¹ In 1973, the Task Force on the Courts of the National Advisory Commission on Criminal Justice Standards & goals (created by the U.S. Department of Justice in 1968) studied the problem of excessive public defender caseloads and adopted a recommendation that defenders handle no more than 150 felonies or 400 misdemeanors in any year.

² U.S. Department of Justice, Bureau of Justice Statics, 2007 National Census of State Court Prosecutors: Prosecutors in State Courts, 2007 — Statistical Tables (December 2011) (NCJ

Our plan

Establish a state-funded **minimum** number of prosecutors based on 400 cases per attorney:

1. Each county gets one prosecutor
2. Each circuit gets additional prosecutors based on caseload
3. Solicitors to prosecute all domestic violence cases, ending the practice of officers handling DV cases

Benefits:

- State-funded prosecutors can be placed throughout circuits according to need
- Prosecutors will attack both violent and non-violent crime
- Reduction in the time it takes to get cases to court
 - ⇒ Cases will be stronger
 - ⇒ Criminals do not get out on bond and hurt someone else
 - ⇒ Victims get their day in court



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Current Caseload

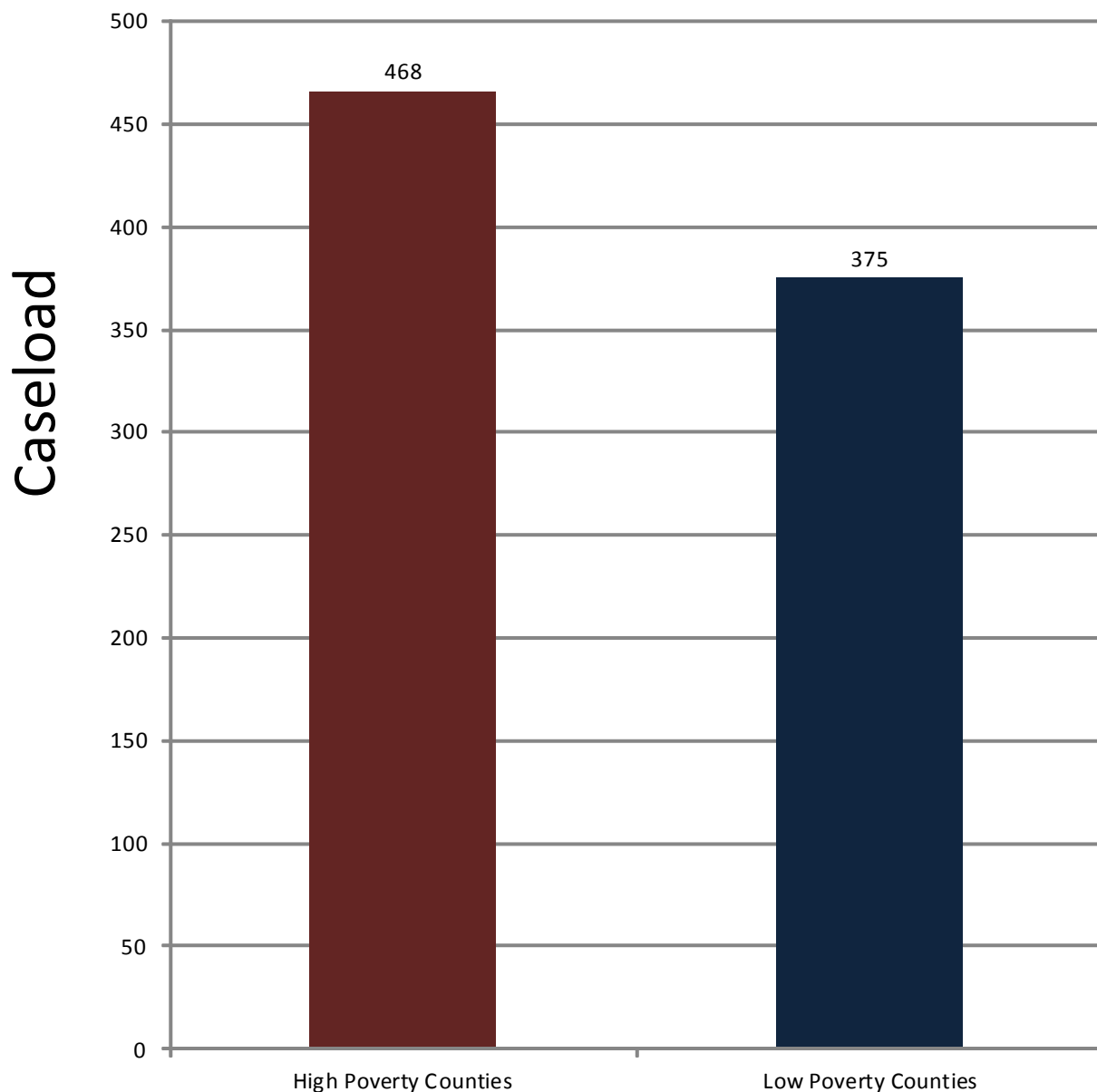
- An average of 114,198 new General Sessions cases were filed in FY 13, 14 and 15.
- The state's 16 judicial circuits employ 303 General Sessions prosecutors.
- The average caseload per prosecutor is 376.8 cases, but varies dramatically among counties.
- 3 counties do not currently have prosecutors; 24 counties have caseloads exceeding 400 cases per attorney

County	Poverty Rate	Average Case Intake	Current # of Prosecutors	Current Cases Per Prosecutors
Dorchester	11.4	1702.7	5	340.5
Beaufort	11.6	2113.7	8	264.2
Lexington	12.4	4902.0	18	272.3
York	13.2	5832.7	18	324.0
McCormick	14.1	167.3	0	0.0
Berkeley	14.3	2907.0	9	323.0
Greenville	15.2	14901.0	34	438.3
Kershaw	16.1	1551.7	3	517.2
Anderson	16.2	3549.3	8	443.7
Richland	16.4	8789.3	38	231.3
Newberry	16.7	976.3	1.5	650.9
Spartanburg	17	7713.0	24	321.4
Charleston	17.7	8261.0	32	258.2
Horry	18	8095.7	15	539.7
Saluda	18.1	468.3	0	0.0
Calhoun	18.2	318.0	1	318.0
Sumter	18.2	2624.3	6	437.4
Pickens	18.4	3722.3	6	620.4
Aiken	18.9	2806.0	6	467.7
Oconee	19.2	1899.3	3	633.1
Edgefield	19.8	571.7	2	285.8
Florence	19.9	3273.7	6	545.6
Laurens	20	2961.7	5	592.3
Georgetown	20.1	1455.3	3	485.1
Greenwood	20.7	2769.0	6	461.5
Abbeville	20.8	695.7	1.5	463.8
Lancaster	20.8	1801.7	5	360.3
Union	21.5	1185.0	2	592.5
Colleton	21.6	1024.7	3	341.6
Darlington	22.3	2447.3	4	611.8
Jasper	22.4	606.7	2	303.3
Cherokee	22.8	1475.0	3	491.7
Clarendon	22.8	849.0	2	424.5
Fairfield	23.2	440.7	2	220.3
Chester	24	684.0	1	684.0
Chesterfield	24.5	945.0	1	945.0
Orangeburg	24.5	1776.0	5	355.2
Hampton	24.7	420.0	1	420.0
Marion	25.2	933.0	1	933.0
Bamberg	26.8	443.0	2	221.5
Lee	27.5	382.0	2	191.0
Barnwell	28.7	723.0	2	361.5
Marlboro	29.2	913.0	2	456.5
Williamsburg	29.9	775.7	2	387.8
Dillon	32.8	1146.7	2	573.3
Allendale	36.3	199.0	0	0.0
Total	17	114198.3	303	376.8



Economic disparity in prosecution

- In South Carolina, 34 counties have poverty rates that exceed the state average of 17 percent.
- Of those counties, 32 have full-time prosecutors that carry an average caseload of 468 cases per attorney.
- Of the 12 counties with average or lower-than-average poverty rates, 11 have full-time prosecutors that carry an average of 375 cases per attorney.
- This means that prosecutors in poorer counties carry caseloads that are 27 percent higher than prosecutors in more affluent counties.

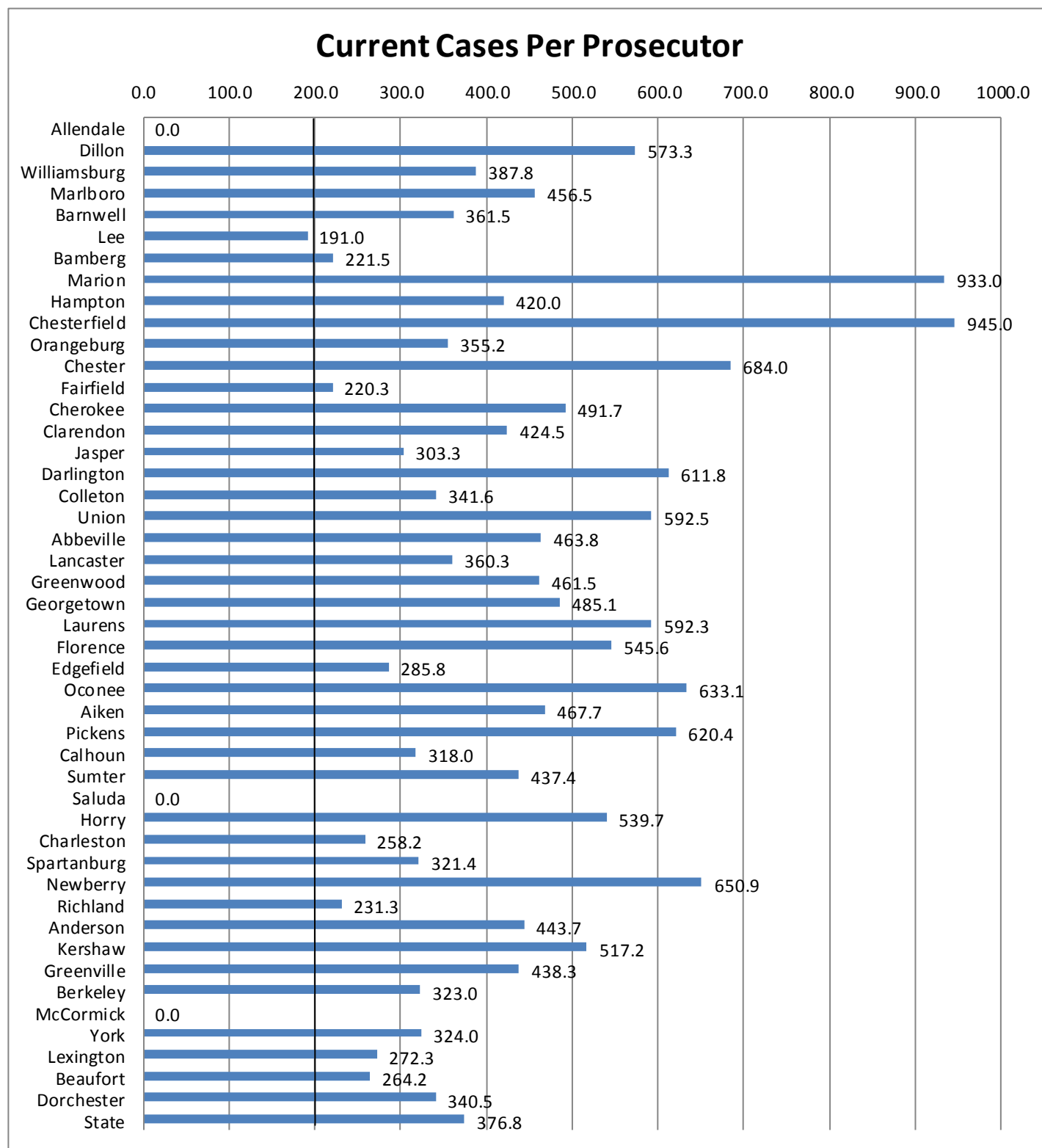




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Current Caseload

- Counties with higher poverty rates tend to have the highest caseloads per prosecutor
- The blank counties have no caseload per attorney analysis because they have no dedicated prosecutors.



— Target caseload




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Current Funding

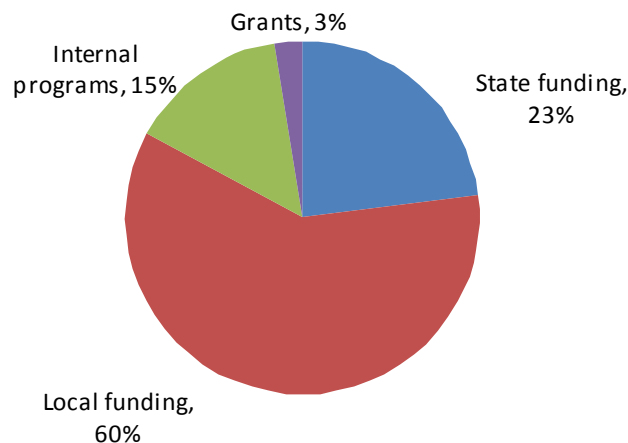
- The state accounts for only 23 percent of the funding for Solicitors' Offices.
- Counties and municipalities make up 60 percent of the funding of prosecution.

Estimated State Funding

Judicial Circuit State Support	\$5,872,002
Law Enforcement Funding	\$3,170,752
Court Fee Funding	\$201,333
Violent Crime Prosecution	\$1,600,000
DUI Funding	\$1,179,041
CDV Funding	\$1,600,000
Victim Assistance	\$782,703
Traffic Education Program	\$21,136
Drug Court Funding	\$2,440,078
Conditional Discharge (Drug Court)	\$474,975
Drug Court Funding Direct Appropriations	\$747,401
Total	\$17,312,041
Total for Prosecution	\$13,623,128
Total for Drug Court/Victim Assistance	\$3,688,913

 Funding for prosecution

Current Funding Breakdown





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National Caseload Standards

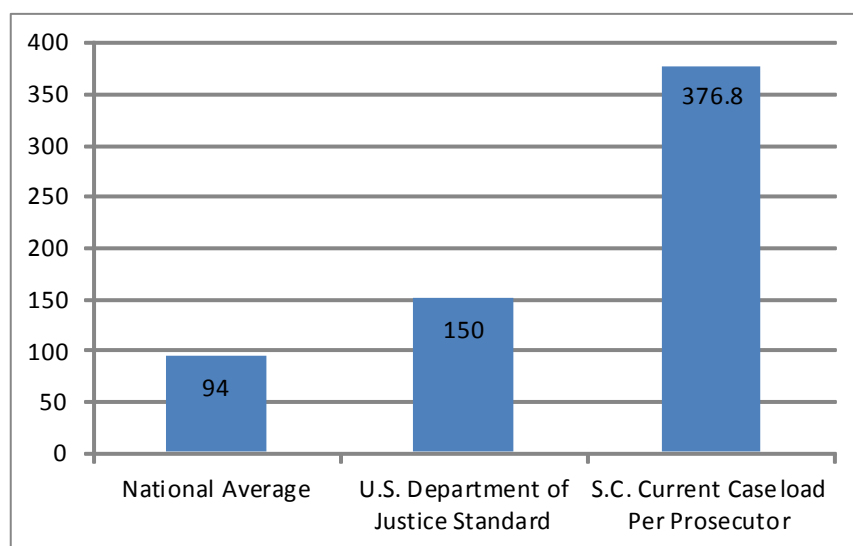
Every profession has a metric by which a capacity per employee is determined. This is done to ensure that a certain level of quality is maintained and that the organization is adequately staffed to handle its workload. In the case of teachers, it is the number of students per teacher.

Solicitors must follow a rigid set of standards for professional conduct. They must give every case the attention it deserves. Prosecutors must conduct a diligent and thorough review of each case to determine whether the facts warrant the charges and to ensure that the rights of the victim and defendant are not infringed upon. The implications of having overworked prosecutors can be dire.

A 2011 Northwestern University Law Review article notes that, in 1968, a national commission created by the Department of Justice studied the problem of excessive public defender caseloads and adopted a recommendation that defenders handle no more than 150 felonies *or* 400 misdemeanors in any year. The article goes on to say that in subsequent years, these guidelines have been widely endorsed by criminal justice organizations, the American Bar Association, and academic commentators. The article suggests that these standards should also apply to prosecutors.¹ South Carolina solicitors prosecute both felonies and misdemeanors. For instance, the Fourteenth Circuit Solicitor's caseload is made up of approximately 75 percent felonies and 25 percent misdemeanors.

In the most recent survey of all prosecutors offices throughout the country, the U.S. Department of Justice found that the average felony caseload per attorney was 94.²

Measuring S.C. by National Benchmarks and Averages



¹Adam M. Gershowitz & Laura R. Killinger, "The State Never Rests: How Excessive Prosecutorial Caseloads Harm Criminal Defendants," 105 Northwestern University L Rev. 261, 262-267 (2011).

²2007 National Census of State Court Prosecutors: Prosecutors in State Courts, 2007 — Statistical Tables, *supra*.



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Funding Request

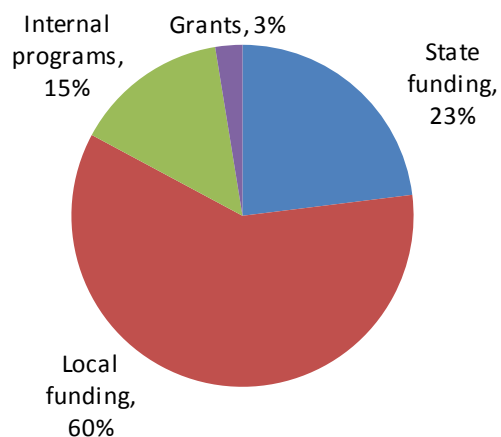
The South Carolina Commission on Prosecution Coordination is requesting an additional \$10,815,795 from the General Assembly to pay for half of the necessary prosecutors throughout the state.

- This approach gets us closer to the 200 cases per attorney benchmark when local funding is included.
- Counties that seek a higher level of service will continue to pay for enhancements.
- All counties will have at least one, full-time dedicated prosecutor.
- The state provides the foundation for professional prosecutorial services.
- Solicitors will ensure that attorneys will prosecute all domestic violence cases.

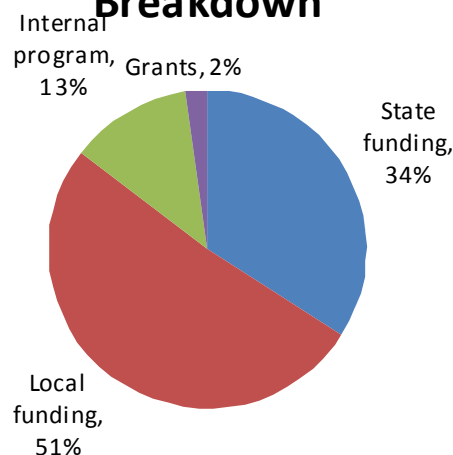
Calculation

Average case intake	114,198
Estimated domestic violence case increase	11,419
Total case intake	125,618
Prosecutors needed (200 cases per atty)	570.99
State-funded prosecutors (50% of total)	285.495
Cost @ \$75K per attorney (\$50K salary)	\$21,412,125
Current state funding for prosecution	\$13,623,128
Additional state funding needed	\$10,815,795

Current Funding Breakdown



Proposed Funding Breakdown

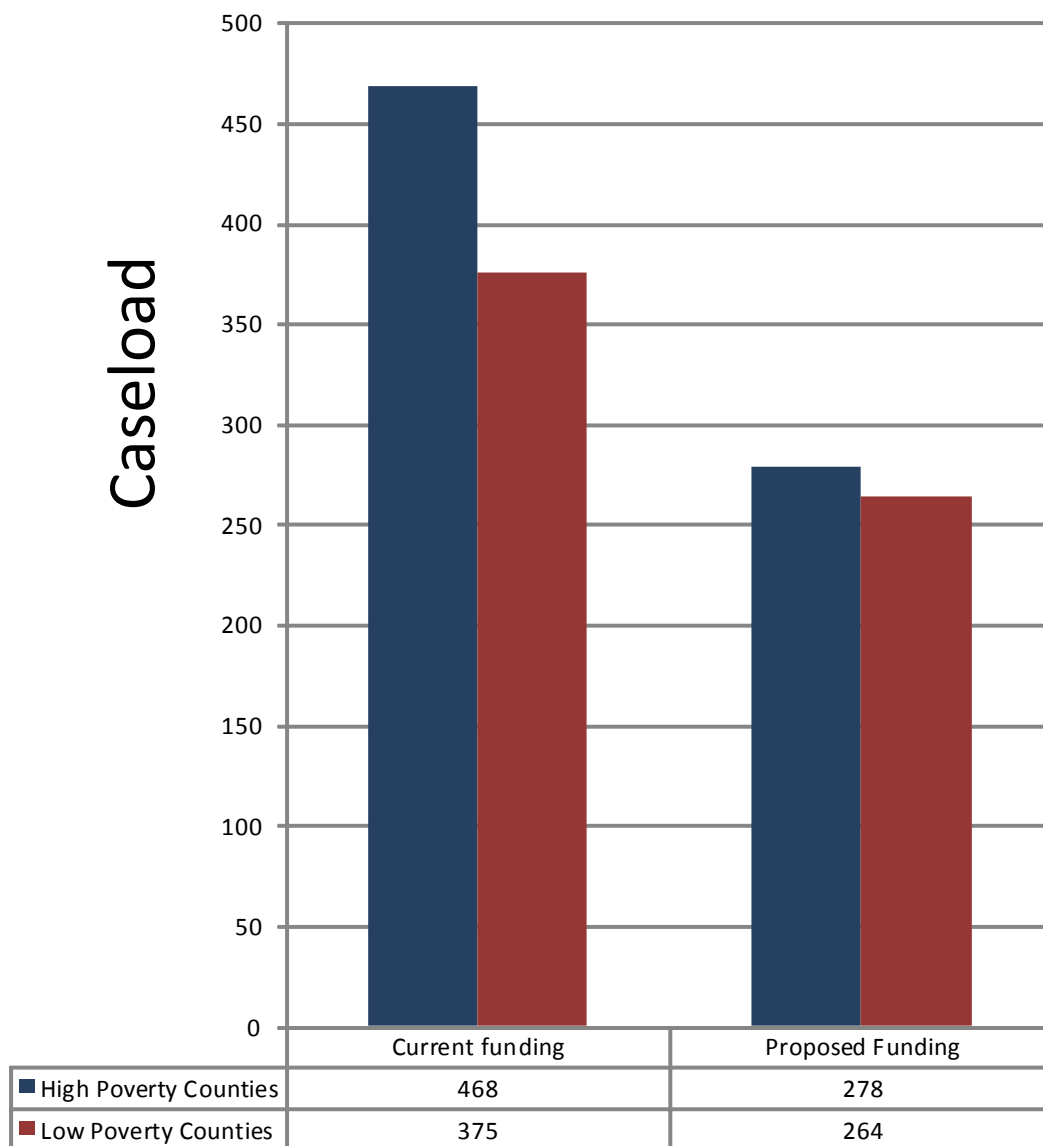




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Reducing economic disparity in prosecution

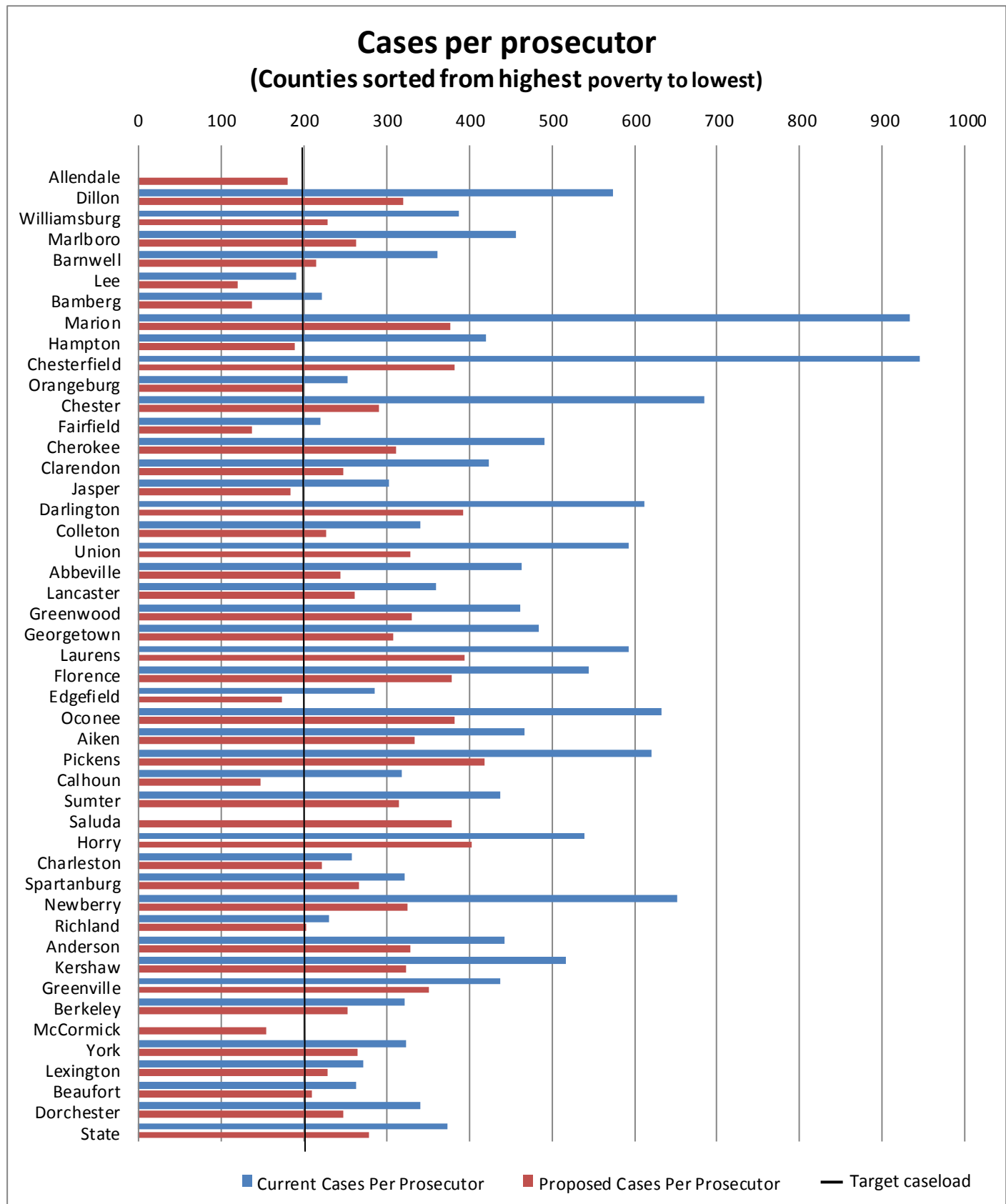
- This funding proposal would **equalize the caseload between high and low poverty counties** by providing the foundation for professional prosecutorial services throughout the state.
- Currently, counties with higher-than-average poverty levels carry prosecutor caseloads that are 27 percent higher than counties with average or lower-than-average poverty rates.
- With this proposal, higher-than-average poverty counties would only have 8 percent higher caseloads.





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Results of Funding

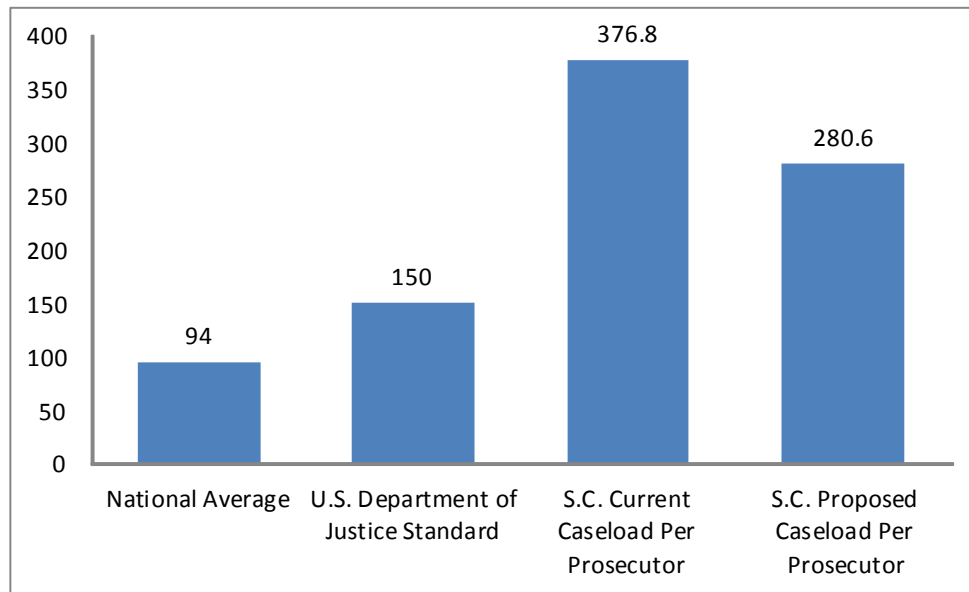




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Results of Funding

<u>Before</u>	<u>After</u>
<ul style="list-style-type: none"> 3 counties did not have full-time prosecutors 24 counties had more than 400 cases per prosecutor 2 counties in line with 200 cases per attorney target Average caseload per prosecutor is 376.8 Officers tried their own domestic violence cases 	<ul style="list-style-type: none"> All counties have full-time prosecutors 3 counties have more than 400 cases per prosecutor 14 counties in line with 200 cases per attorney target Average caseload per prosecutor is 280.8 All domestic violence cases to be handled by solicitors



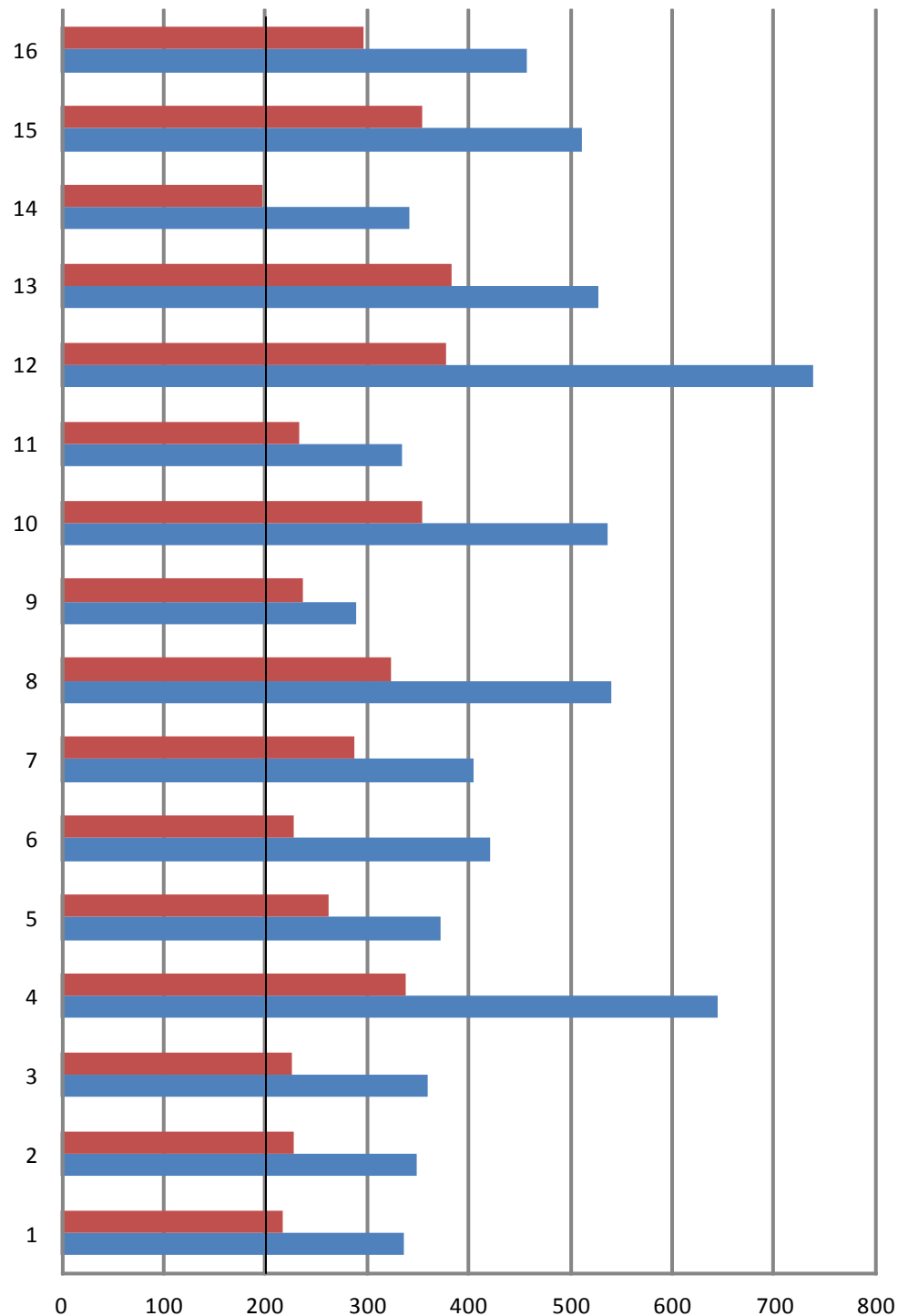
Results of Funding

Counties	Poverty rate	Average Intake	Current number of Prosecutors	Current Cases Per Prosecutor	Proposed number of Prosecutors	Proposed Cases Per Prosecutor
Allendale	36.3	218.9	0	0.0	1.1	180.9
Dillon	32.8	1261.3	2	573.3	3.6	320.6
Williamsburg	29.9	853.2	2	387.8	3.4	228.8
Marlboro	29.2	1004.3	2	456.5	3.5	264.0
Barnwell	28.7	795.3	2	361.5	3.4	215.0
Lee	27.5	420.2	2	191.0	3.2	119.7
Bamberg	26.8	487.3	2	221.5	3.2	137.5
Marion	25.2	1026.3	1	933.0	2.5	377.9
Hampton	24.7	462.0	1	420.0	2.2	189.9
Chesterfield	24.5	1039.5	1	945.0	2.5	381.8
Orangeburg	24.5	1953.6	5	355.2	7.5	259.54
Chester	24	752.4	1	684.0	2.3	291.8
Fairfield	23.2	484.7	2	220.3	3.2	136.8
Cherokee	22.8	1622.5	3	491.7	4.7	311.1
Clarendon	22.8	933.9	2	424.5	3.4	247.8
Jasper	22.4	667.3	2	303.3	3.3	183.6
Darlington	22.3	2692.1	4	611.8	6.2	392.8
Colleton	21.6	1127.1	3	341.6	4.5	226.9
Union	21.5	1303.5	2	592.5	3.6	329.6
Abbeville	20.8	765.2	1.5	463.8	2.8	244.1
Lancaster	20.8	1981.8	5	360.3	6.9	260.9
Greenwood	20.7	3045.9	6	461.5	8.4	330.0
Georgetown	20.1	1600.9	3	485.1	4.7	307.6
Laurens	20	3257.8	5	592.3	7.5	395.5
Florence	19.9	3601.0	6	545.6	8.6	378.6
Edgefield	19.8	628.8	2	285.8	3.3	173.9
Oconee	19.2	2089.3	3	633.1	5.0	383.3
Aiken	18.9	3086.6	6	467.7	8.4	333.6
Pickens	18.4	4094.6	6	620.4	8.9	419.6
Calhoun	18.2	349.8	1	318.0	2.2	147.2
Sumter	18.2	2886.8	6	437.4	8.3	315.5
Saluda	18.1	515.2	0	0.0	1.2	379.1
Horry	18	8905.2	15	539.7	20.1	403.4
Charleston	17.7	9087.1	32	258.2	37.2	222.4
Spartanburg	17	8484.3	24	321.4	28.9	267.1
Newberry	16.7	1074.0	1.5	650.9	3.0	326.4
Richland	16.4	9668.3	38	231.3	43.4	202.4
Anderson	16.2	3904.3	8	443.7	10.8	329.1
Kershaw	16.1	1706.8	3	517.2	4.8	324.6
Greenville	15.2	16391.1	34	438.3	42.5	350.7
Berkeley	14.3	3197.7	9	323.0	11.5	253.6
McCormick	14.1	184.1	0	0.0	1.1	154.3
York	13.2	6415.9	18	324.0	21.9	265.9
Lexington	12.4	5392.2	18	272.3	21.5	228.3
Beaufort	11.6	2325.0	8	264.2	10.1	210.0
Dorchester	11.4	1872.9	5	340.5	6.9	248.3
State	17	125618.2	303	376.8	447.2	280.8



Results of Funding

Cases per prosecutor



	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Proposed Caseload Per Prosecutor	218	229	228	340	264	230	289	324	238	356	234	378	385	198	355	298
Current Caseload Per Prosecutor	338	350	360	647	374	422	407	542	291	538	336	739	529	343	512	458