

Law Enforcement and Criminal Justice Subcommittee Meeting

Tuesday, August 14, 2018

Table of Contents

Contents

Agenda.....	3
Meeting Minutes	5
Study Timeline	10
Figure 1. Key dates in the study process.	10
Agency Snapshot	11
Figure 2. Snapshot of the agency's major organizational units, fiscal year 2017-18 resources (employees and funding), successes, and challenges.	11
S.C. Judicial Circuits.....	12
Figure 3. Map of S.C. judicial circuits with counties and list of circuit solicitors and public defenders as of August 2018... 12	
Agency Overview	13
Legal Directives	13
Table 1. Legal directives for the Commission compared to directives for the Office of Indigent Defense	14
Mission and Vision	17
Case Flow Charts and Indigency Screening	18
Overview of Case Flow Charts.....	19
Table 2. Court types, cases heard in each, and who represents the prosecution and defense.	20
Figure 4. Flow chart summarizing steps in a criminal case, including murder and death penalty cases.....	22
Table 3. Actions required to seek justice in all adult criminal cases, except capital murder.	23
Table 4. Actions required to seek justice in adult capital murder cases.	24
Figure 5. Flow chart summarizing steps in a sexually violent predator case.....	25
Figure 6. Flow chart summarizing steps in a post-conviction relief case.....	26
Table 5. Actions required to seek justice in juvenile criminal cases (crimes and status offenses).	27
Figure 7. Flow chart summarizing steps in a Family Court case.....	28
Overview of Indigency Applications and Screening	29
Table 6. Differences in how counties and courts screen for whether an individual qualifies as an indigent, and thus is entitled to legal representation from the state.	32
Death Penalty Trial Division	65
Overview of the Death Penalty Trial Division	66
Organizational Chart related to the Death Penalty Trial Division	67
Figure 8. SCCID Organizational chart as of March 2018.	67
Products, Services, and Customers related to the Death Penalty Trial Division	68
Table 7. List of the Death Penalty Trial Division's deliverables.	68
Table 8. Additional details about the Death Penalty Trial Division's deliverable.	70
Case Flow Charts.....	72
Figure 9. Flow chart summarizing steps in a death penalty case.....	73
Figure 10. Flow chart summarizing steps in a post-conviction relief case.	74
Employee Information related to the Death Penalty Trial Division	75
Table 9. Death Penalty Trial Division: Employee Information.	75
Figure 1. Agency organizational chart - Marine Resources Division portion, provided by the agency, current as of August 9, 2017.....	75
Revenue and Funding Sources of the Death Penalty Trial Division.....	76
Revenue/Funding Received or Generated by the Death Penalty Trial Division	76

Table 10. Funding generated by the Death Penalty Trial Division.	76
Revenue/Funding Utilized by the Death Penalty Trial Division	77
Table 11. Agency revenue sources utilized by the Death Penalty Trial Division to achieve the agency’s comprehensive strategic plan in FY 2016-17 and 2017-18.....	77
Agency strategic plan and performance related to the Death Penalty Trial Division	78
<i>Funds Spent/Transferred not toward the agency’s comprehensive strategic plan</i>	78
<i>Funds Spent toward the agency’s comprehensive strategic plan</i>	78
Strategic Plan associated with the Death Penalty Division.....	79
Table 12.1. Part of agency’s strategic plan related to the Death Penalty Trial Division, Strategy 1.3: Ensure quality representation in capital death cases.....	79
Performance measures associated with the Death Penalty Division.....	80
Table 12.2. Performance measure associated with continued education.	80
Division of Appellate Defense	81
Overview of the Division of Appellate Defense.....	82
Organizational Chart related to the Division of Appellate Defense	83
Figure 11. SCCID Organizational chart as of March 2018.....	83
Products, Services, and Customers related to the Division of Appellate Defense	84
Table 13. List of the Division of Appellate Defense’s deliverables.....	84
Table 14. Additional details about the Division of Appellate Defense’s deliverable.....	85
Case Flow Charts.....	87
Figure 12. Flow chart summarizing steps in the appeals of criminal cases and civil sexually violent predator cases.	88
Figure 13. Flow chart summarizing steps in the appeals of criminal post-conviction relief (PCR) cases.....	89
Employee Information related to the Division of Appellate Defense	90
Table 15. Division of Appellate Defense: Employee Information.....	90
Figure 1. Agency organizational chart - Marine Resources Division portion, provided by the agency, current as of August 9, 2017.....	90
Revenue and Funding Sources of the Division of Appellate Defense	91
Revenue/Funding Received or Generated by the Division of Appellate Defense.....	91
Table 16. Funding generated by the Division of Appellate Defense.....	91
Revenue/Funding Utilized by the Division of Appellate Defense.....	92
Table 17. Agency revenue sources utilized by the Division of Appellate Defense to achieve the agency’s comprehensive strategic plan in FY 2016-17 and 2017-18.....	92
Agency strategic plan and performance related to the Division of Appellate Defense.....	93
<i>Funds Spent/Transferred not toward the agency’s comprehensive strategic plan</i>	93
<i>Funds Spent toward the agency’s comprehensive strategic plan</i>	93
Strategic Plan associated with the Division of Appellate Defense	94
Table 18.1. Part of agency’s strategic plan related to the Division of Appellate Defense, Strategy 1.2: Maintain the appellate defense system.....	94
Performance measures associated with the Division of Appellate Defense	95
Appendix A. Commissioner Resource Book 2018	96
Appendix B. Exit Interview Questionnaires	193
Appendix C. Costs per type of case.....	206
Appendix D. Indigency Screening Report	208
Committee Contact Information	217

AGENDA

**South Carolina
House of Representatives**



Legislative Oversight Committee

LAW ENFORCEMENT AND CRIMINAL JUSTICE SUBCOMMITTEE

Chairman Edward R. Tallon Sr.

The Honorable Katherine E. (Katie) Arrington

The Honorable William M. (Bill) Hixon

The Honorable Jeffrey E. (Jeff) Johnson

Tuesday, August 14, 2018

11:00am

Room 110 - Blatt Building

Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming whenever technologically feasible.

AGENDA

- I. Approval of Meeting Minutes**
- II. Discussion of the study of the Commission on Indigent Defense**
- III. Adjournment**

MEETING MINUTES

Chair Wm. Weston J. Newton

First Vice-Chair:
Laurie Slade Funderburk

Legislative Oversight Committee



Katherine E. (Katie) Arrington
William K. (Bill) Bowers
Neal A. Collins
MaryGail K. Douglas
William M. (Bill) Hixon
Jeffrey E. (Jeff) Johnson
Robert L. Ridgeway, III
Bill Taylor
John Taliaferro (Jay) West, IV

Bruce W. Bannister
Gary E. Clary
Chandra E. Dillard
Phyllis J. Henderson
Joseph H. Jefferson, Jr.
Mandy Powers Norrell
Tommy M. Stringer
Edward R. Tallon, Sr.
Robert Q. Williams

South Carolina House of Representatives

Jennifer L. Dobson
Research Director

Cathy A. Greer
Administration Coordinator

Charles L. Appleby IV
Legal Counsel

Carmen J. McCutcheon Simon
Research Analyst/Auditor

Kendra H. Wilkerson
Fiscal/Research Analyst

Post Office Box 11867
Columbia, South Carolina 29211
Telephone: (803) 212-6810 • Fax: (803) 212-6811
Room 228 Blatt Building

Law Enforcement and Criminal Justice Subcommittee

Tuesday, July 24, 2018

11:00 am

Blatt Room 511

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Law Enforcement and Criminal Justice Subcommittee meeting was called to order by Subcommittee Chairman Edward R. Tallon, Sr., on Tuesday, July 24, 2018, in Room 511 of the Blatt Building. All members of the Subcommittee, except Representative Katie Arrington, were present for either all or a portion of the meeting.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.
- II. Representative Jeffrey E. Johnson makes a motion to approve the meeting minutes from the prior Subcommittee meeting.

Rep. Johnson's motion to approve the minutes from the June 18, 2018, meeting:	Yea	Nay	Not Voting (Absent)
Rep. Katherine E. Arrington			✓
Rep. William M. Hixon	✓		
Rep. Jeffrey E. Johnson	✓		
Rep. Edward R. Tallon, Sr.	✓		

Discussion of the Commission on Prosecution Coordination

- I. Chairman Tallon explains the purpose of the meeting today is for agency representatives to provide an overview of the following:
 - a. different courts, cases heard in each, and who prosecutes the cases;
 - b. actions required to move cases forward from arrest to disposition, in particular the actions for which the prosecutor is responsible, and issues which could arise that may slow down the process, as in all criminal prosecutions, the sixth amendment to the U.S. Constitution provides the accused the right to a speedy and public trial;
 - c. solicitor funding and expenses including an explanation of the Commission's financial task force's goals, timeline, and information it has already collected and is in the process of collecting; and
 - d. agency funding.
- II. Fourteenth Judicial Circuit Solicitor Isaac McDuffie Stone, III, Chair of the Commission, and Ms. Amie L. Clifford, Education Coordinator/Senior Staff Attorney for Commission, provide remarks related to the following topics:
 - a. warrant approval;
 - b. definition of a "case";
 - c. investigative v. screening grand juries;
 - d. case management orders;
 - e. evidence data base systems;
 - f. drug courts, including funding and how success is measured;
 - g. backlog of cases;

- h. solicitor offices funding, including where funds are maintained, accountability, and commission's finance task force; and
- i. agency funding.

Members ask questions, which Solicitor Stone and Ms. Clifford answer.

- III. Subcommittee members make various motions during the meeting, which are listed below and on the next pages. A roll call vote is held for these motions, and, among the members present, the motions pass unanimously.

Rep. Hixon's motion that the Subcommittee Study include a recommendation that the agency communicate with the Law Enforcement Training Council, applicable law enforcement associations, Municipal Association, Association of Counties, Judicial Department, and other jurisdictions across the country that utilize cloud based evidence systems, to (1) determine a method to collect applicable data related to the safekeeping and transfer of evidence upon which policy makers can make recommendations, and (2) collect the applicable data. Applicable data may include, but is not limited to, (1) current protections from evidence mishandling (i.e., policies and practices relating to lost/stolen computer/flashdrive; access by separated employee; etc.); (2) annual personnel time and costs related to transferring evidence through current methods; and (3) if possible, situations in which all evidence has not been transferred from and to the appropriate parties.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Johnson's motion that the Subcommittee Study include a recommendation that the General Assembly provide in statute that the agency has the authority to enforce regulations it promulgates applicable to solicitors through mechanisms the agency deems effective:	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Johnson's motion that the Subcommittee Study include a recommendation that the agency meet with applicable law enforcement, solicitors, and criminal defense attorneys associations to promulgate a uniform method of case data management, and determine if backlog would be reduced an electronic case management system:	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Hixon's motion that the Subcommittee Study include a recommendation that the General Assembly should determine the intended purpose of the money provided to S.C. Center for Fathers and Families and whether it should pass through a more appropriate agency:	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

IV. There being no further business, the meeting is adjourned.

STUDY TIMELINE

The House Legislative Oversight Committee's (Committee) process for studying the Commission on Indigent Defense (agency, Commission, or SCCID) includes actions by the full Committee; Law Enforcement and Criminal Justice Subcommittee (Subcommittee); the agency; and the public. Key dates and actions are listed below.

Legislative Oversight Committee Actions

- December 19, 2017 - **Prioritizes the agency for study**
- January 22, 2018 - Provides the agency notice about the oversight process
- January 23 - March 1, 2018 - Solicits input about the agency in the form of an online public survey
- April 26, 2018 - **Meeting #2** to obtain public input about the agency

Law Enforcement and Criminal Justice Subcommittee Actions

- April 24, 2018 - Holds **Meeting #1** to discuss the agency's history, legal directives, mission, vision, general information about employees and finances, details about the agency's administration unit, and agency recommendations for internal and law changes
- May 1, 2018 - Holds **Meeting #3** to discuss questions from information presented by the agency during the previous meeting
- August 14, 2018 - Holds **Meeting #4** to discuss the process from the time an indigent defendant is arrested to case resolution, indigency screening, death penalty trial division, and division of appellate defense.

Commission on Indigent Defense Actions

- March 9, 2015 - Submits its **Annual Restructuring and Seven-Year Plan Report**
- January 20, 2016 - Submits its **2016 Annual Restructuring Report**
- September 2016 - Submits its **2015-16 Accountability Report**
- September 2017 - Submits its **2016-17 Accountability Report**
- March 16, 2018 - Submits its **Program Evaluation Report**

Public's Actions

- January 23 - March 1, 2018 - Provides input about the agency via an online public survey
- Ongoing - Submits written comments on the Committee's webpage on the General Assembly's website (www.scstatehouse.gov)

Figure 1. Key dates in the study process.

AGENCY SNAPSHOT

Commission on Indigent Defense

Major Agency Organizational Units

Office of Circuit Public Defenders

Provides a statewide public defender system with standards and accountability for the delivery of legal representation to indigent defendants in state courts.

Division of Appellate Defense

Represents indigents in the majority of criminal appeals, including death penalty appeals before the SC Court of Appeals and the SC Supreme Court.

Administration

Provides leadership and direction for the agency to include administrative, financial, and support services.

Death Penalty Trial Division

Represents indigents in trials involving the death penalty (i.e., capital trials) statewide.

FY 17-18 Resources

Employees
Available FTE: 70.50
Filled FTE: 68.50
Temp/Grant: 1.00

Funding
\$45.06 million
appropriated and
authorized

SUCCESSES

- Implementing the statewide public defender system which enabled oversight by the Commission.

- Coordinating the Rule 608 contract system which allows the agency to take applications and select those attorneys qualified to handle specific types of cases to include criminal, post-conviction relief, sexual violent predator, and certain family court matters.

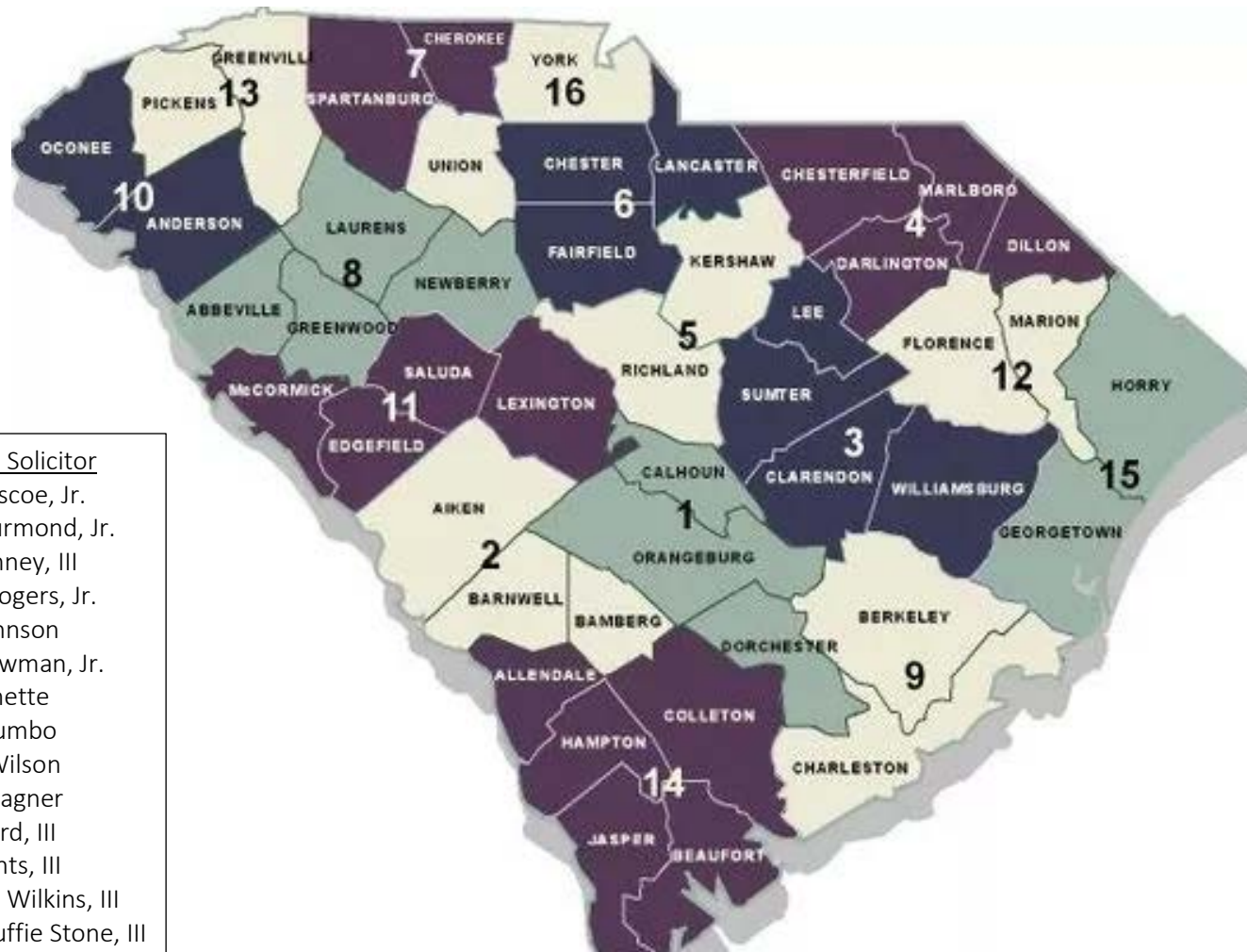
- Conducting focused seminars and workshops for public defenders with fewer than three years experience and continued annual training for other public defenders and contract attorneys.

CHALLENGES

- Addressing whether defendants are being adequately screened to assess their financial status for appointed counsel.
- Representing individuals in an efficiently functioning criminal justice system with a disparity in funding at the county level between prosecution and defense.
- Finding enough contract attorneys qualified to handle specific types of cases in the rural areas of the state where a county may have a very limited number of attorneys.

Figure 2. Snapshot of the agency's major organizational units, fiscal year 2017-18 resources (employees and funding), successes, and challenges.¹

S.C. JUDICIAL CIRCUITS



Circuit and Solicitor

- 1 - David M. Pascoe, Jr.
- 2 - J. Strom Thurmond, Jr.
- 3 - Ernest A. Finney, III
- 4 - William B. Rogers, Jr.
- 5 - Daniel E. Johnson
- 6 - Randy E. Newman, Jr.
- 7 - Barry J. Barnette
- 8 - David M. Stumbo
- 9 - Scarlett A. Wilson
- 10 - David R. Wagner
- 11 - S.R. Hubbard, III
- 12 - E.L. Clements, III
- 13 - William W. Wilkins, III
- 14 - Isaac McDuffie Stone, III
- 15 - Jimmy A. Richardson
- 16 - Kevin S. Brackett

Circuit and Public Defender

- 1 - Mark Leiendecker
- 2 - De Grant Gibbons
- 3 - Jack D. Howle, Jr.
- 4 - Matt Rivers
- 5 - Fielding Pringle
- 6 - Mike Lifsey
- 7 - Clay T. Allen
- 8 - Janna A. Nelson
- 9 - D. Ashley Pennington
- 10 - Jennifer L. Johnson
- 11 - Robert M. Madsen
- 12 - Scott Floyd
- 13 - Christopher D. Scalzo
- 14 - Stephanie Smart-Gittings
- 15 - Orrie E. West
- 16 - Harry A. Dest

Figure 3. Map of S.C. judicial circuits with counties and list of circuit solicitors and public defenders as of August 2018.²

AGENCY OVERVIEW

Legal Directives

The importance of guaranteeing a citizen the right to trial and providing equal protection under the law are outlined in the following sections of the **United States Constitution**:

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment XIV

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The South Carolina Commission on Indigent Defense, through **S.C. Code Ann. 17-3-310**, exists to develop rules, policies, procedures, regulations, and standards it considers necessary to comply with state law, regulations, and the rules of the Supreme Court, as it relates to the nature and scope of services, 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. Table 1 provides a comparison of the duties of the Commission, which is the governing body of the agency, and the Office of Indigent Defense, which operates under the jurisdiction of the Commission.

Table 1. Legal directives for the Commission compared to directives for the Office of Indigent Defense

Legal directives for the...	
Commission on Indigent Defense Applicable statutes: S.C. Code Ann. 17-3-310 ³ and 17-3-340 ⁴	Office of Indigent Defense (OID) Applicable statutes: S.C. Code Ann. 17-3-3305 and 17-3-3606
<u>Operations</u>	
<p>Commission shall...</p> <p><u>In General</u></p> <ul style="list-style-type: none"> Establish divisions within the office to administer necessary services and programs.⁷ Act in the best interest of indigent defendants who are receiving legal representation.⁸ <p><u>Meetings/Officers</u></p> <ul style="list-style-type: none"> Meet at least quarterly and at other times and places as it deems necessary or convenient for the performance of its duties.⁹ Elect such officers, other than the chairperson, from the members of the commission as it deems necessary.¹⁰ Adopt rules for the transaction of its business as it desires.¹¹ <p><u>Clients and Services</u></p> <ul style="list-style-type: none"> Develop rules, policies, procedures, regulations, and standards necessary to comply with state law or regulations and the rules of the Supreme Court including: (1) nature and scope of services to be provided; (2) clientele to be served; (3) establishment of criteria to be used in the determination of indigency; and (4) qualifications for services for indigent legal representation.¹² Approve and implement programs, services, rules, policies, procedures, regulations, and standards for determining indigence and for assessing and collecting the costs of legal representation and related services.¹³ 	<p>OID shall...</p> <p><u>Office Operations</u></p> <ul style="list-style-type: none"> Administer and coordinate the operations of the office and all divisions within the office.¹⁴ Maintain proper records of all financial transactions related to the operation of the office.¹⁵ <p><u>Commission Operations</u></p> <ul style="list-style-type: none"> 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.¹⁶ Executive Director will attend all commission meetings, except those meetings or portions of the meetings that address the question of appointment or removal of the director.¹⁷ Maintain proper records of all financial transactions related to the operation of the commission.¹⁸ Ensure the expenditures of the commission are not greater than the amounts budgeted or available from other revenue sources.¹⁹ <p><u>Statewide Indigent Defense Services</u></p> <ul style="list-style-type: none"> 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.²⁰ Distribute all funds appropriated by the General Assembly for the defense of indigents.²¹ 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.²² <p>Implement and perform other duties the commission may direct or assign.²³</p>

Legal directives for the...	
Commission on Indigent Defense Applicable statutes: S.C. Code Ann. 17-3-310 ³ and 17-3-340 ⁴	Office of Indigent Defense (OID) Applicable statutes: S.C. Code Ann. 17-3-3305 and 17-3-3606
<u>Circuit Public Defender Division</u> (operates under jurisdiction of the Commission)	
Commission shall... <ul style="list-style-type: none"> • Approve and implement programs, services, rules, policies, procedures, regulations, and standards for maintaining and operating circuit public defender offices.²⁴ • Establish and administer the rules and procedures for selection of members to serve on the Circuit Public Defender Selection Panels.²⁵ • Establish the rules and procedures under which the selection panels shall operate.²⁶ • Approve and implement programs, services, rules, policies, procedures, regulations, and standards for the qualifications, employment, and compensation of public defenders and other circuit public defender office personnel.²⁷ • Assist the public defenders throughout the state in their efforts to provide adequate legal defense to the indigent.²⁸ • Negotiate and enter into contracts(not required to, but may), 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.²⁹ 	OID shall... <ul style="list-style-type: none"> • Supervise compliance among the circuit defender offices with rules, procedures, regulations, and standards adopted by the commission.³⁰ • Provide for the training of attorneys and other staff involved in the legal representation of persons subject to the provisions of this chapter.³¹
<u>Contract/Appointed Counsel and Conflicts of Interest</u>	
Commission shall... <ul style="list-style-type: none"> • Approve and implement programs, services, rules, policies, procedures, regulations, and standards for compensation of attorneys appointed to represent indigent persons pursuant to this chapter.³² • Approve and implement programs, services, rules, policies, procedures, regulations, and standards for accepting contractual indigent defense representation.³³ • Approve and implement programs, services, rules, policies, procedures, regulations, and standards for prescribing minimum experience, training, and other qualifications for appointed counsel where a conflict of interest arises between the public defender and an indigent person.³⁴ 	OID shall... <ul style="list-style-type: none"> • Provide for the training of attorneys and other staff involved in the legal representation of persons subject to the provisions of this chapter.³⁵

Legal directives for the...	
Commission on Indigent Defense Applicable statutes: S.C. Code Ann. 17-3-310 ³ and 17-3-340 ⁴	Office of Indigent Defense (OID) Applicable statutes: S.C. Code Ann. 17-3-3305 and 17-3-3606
<u>Specialty Work</u>	
<p>Commission shall...</p> <p><u>Experts and Investigators</u></p> <ul style="list-style-type: none"> Approve and implement programs, services, rules, policies, procedures, regulations, and standards for providing and compensating experts, investigators, and other persons who provide services necessary for the effective representation of indigent persons.³⁶ <p><u>Juveniles</u></p> <ul style="list-style-type: none"> Approve the development and improvement of programs which provide legal representation to indigent persons and juveniles accused of violations of criminal law.³⁷ 	<p>OID shall...</p> <p><u>Appeals</u></p> <ul style="list-style-type: none"> Provide defense to indigents who desire 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.³⁸ <p><u>Death Penalty</u></p> <ul style="list-style-type: none"> Provide defense to indigents in death penalty cases.³⁹
<u>Statistics/Performance</u>	
<p>Commission shall...</p> <ul style="list-style-type: none"> Cooperate and consult with state agencies, professional associations, and other groups concerning⁴⁰ <ul style="list-style-type: none"> Causes of criminal conduct, Rehabilitation and correction of persons charged with and convicted of crimes, Administration of criminal justice, and Improvement and expansion of defender services. Collect, maintain, review, and publish records and statistics for the purpose of evaluating the delivery of indigent defense representation in the State.⁴¹ Approve and implement programs, services, rules, policies, procedures, regulations, and standards for delivery of indigent services. This includes, but is not limited to, standards for: <ul style="list-style-type: none"> public defender and appointed counsel caseloads, including a uniform definition of a “case” for purposes of determining caseload statistics; performance of public defenders and appointed counsel representing indigent persons; procedures for prescribing qualifications and performance of independent counsel representing indigent persons in both trial and appellate courts, whether by contract or court appointment; and removing a circuit public defender for cause.⁴² 	<p>OID shall...</p> <ul style="list-style-type: none"> 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.⁴³ Serve as a resource for the compilation of accurate statistical data covering the indigent defense system in this state.⁴⁴ <ul style="list-style-type: none"> Note: This directive only requires the agency to serve as a resource for others who may be compiling information; it does not require the agency to compile information.⁴⁵ Currently, the only law requiring the agency to compile information is a proviso which requires the agency to compile information on revenue streams and expenditures by circuit.⁴⁶ Report annually to the General Assembly on the indigent defense system.⁴⁷

Mission and Vision

The agency provides Act 164 of 1993 and S.C. Code Ann. 17-3-310, et. seq., as the basis for its mission and vision.

SCCID's mission is as follows:

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 charged with criminal offenses in the courts of the state. The agency also manages the Rule 608 Contract program, contracting with attorneys across the state to provide representation in criminal and specific family court cases.** (emphasis added)

SCCID's vision is to

Ensure that individuals, determined to be indigent, are provided the highest quality legal defense representation.

CASE FLOW CHARTS AND INDIGENCY SCREENING

Overview of Case Flow Charts

Table 2 includes an overview of court types, cases heard in each, and who represents the prosecution and defense. Figures 4 - 7 and Tables 3 - 5, explain the process for individuals involved in the following types of cases:

- Criminal cases (including murder and death penalty);
 - Figure 4 - Flow chart summarizing steps in a criminal case, including murder and death penalty cases.
 - Table 3 - Actions required to seek justice in all adult criminal cases, except capital murder.
 - Table 4 - Actions required to seek justice in adult capital murder cases.
- Sexually Violent Predator (SVP) civil cases;
 - Figure 5 - Flow chart summarizing steps in a sexually violent predator case.
- Post-Conviction Relief (PCR) cases; and
 - Figure 6 - Flow chart summarizing steps in a post-conviction relief case.
- Family Court cases.
 - Table 5 - Actions required to seek justice in juvenile criminal cases (crimes and status offenses).
 - Figure 7 - Flow chart summarizing steps in a Family Court case.

The process of appealing decisions in these types of cases is included later in the packet under the Division of Appellate Defense.

After the case flow charts, is a section which provides information on the differences in how counties and courts screen for whether an individual qualifies as an indigent, and thus is entitled to legal representation from the state.

Table 2. Court types, cases heard in each, and who represents the prosecution and defense.⁴⁸

SUPREME COURT			
<u>Cases heard</u>			
Appeals from circuit court and family court. The Supreme Court has exclusive jurisdiction over certain types of appeals, and may grant a writ of certiorari to review decisions of the Court of Appeals. ⁴⁹			
<u>Prosecution (State)</u>		<u>Defendant (Individual)</u>	
<i>Attorney:</i> Attorney General, solicitor, or other prosecutor or prosecution attorney ⁵⁰		<i>Attorney for Indigent in criminal, Post-conviction Relief (PCR), Sexual Violent Predator (SVP), and family court cases:</i> S.C. Commission on Indigent Defense (SCCID) atty., other appointed atty., municipal or county contract atty., or volunteer	
<i>Paid by:</i> Attorney General, solicitor, or other prosecution office		<i>Paid by:</i> SCCID or, in summary court, municipalities/counties (volunteers not paid)	
		<i>Attorney for Non-Indigent in all cases:</i> Private attorney	
		<i>Paid by:</i> Defendant or someone else on his behalf	
COURT OF APPEALS			
<u>Cases heard</u>			
Appeals from the circuit court and family court proceedings for which jurisdiction over appeals does not lay within the exclusive jurisdiction of the Supreme Court			
<u>Prosecution (State)</u>		<u>Defendant (Individual)</u>	
<i>Attorney:</i> Attorney General, solicitor, or other prosecutor or prosecution attorney		<i>Attorney for Indigent in criminal, PCR, SVP, and family court cases:</i> SCCID attorney, other appointed attorney, municipal or county contract attorney, or volunteer attorney	
<i>Paid by:</i> Attorney General, solicitor, or other prosecution office		<i>Paid by:</i> SCCID or, for summary court cases, municipalities and counties (volunteers not paid)	
		<i>Attorney for Non-Indigent in all cases:</i> Private attorney	
		<i>Paid by:</i> Defendant or someone else on his behalf	
CIRCUIT COURT			
<u>Cases heard</u>			
In the Court of General Sessions (the “criminal side” of the Circuit Court), the court addresses criminal offenses over which it either has exclusive jurisdiction or over which it shares jurisdiction (“concurrent jurisdiction”) with the summary court. In the Court of Common Pleas (the “civil side” of the Circuit Court), the court addresses PCR applications, post-sentencing applications for orders of protections, SVP petitions, criminal asset forfeiture matters, and appeals from summary court conviction.			
COURT OF GENERAL SESSIONS		COURT OF COMMON PLEAS	
Criminal Cases		Post-Conviction Relief (PCR)	
<u>Prosecution (State)</u>	<u>Defendant (Individual)</u>	<u>Prosecution (State)</u>	<u>PCR Applicant (Individual)</u>
<i>Attorney:</i> Solicitor or Attorney General ⁵¹	<i>Attorney for Indigent:</i> Rule 608 contract	<i>Attorney:</i> Attorney General	<i>Attorney for Indigent:</i> Rule 608 contract attorney, other appointed or volunteer attorney
<i>Paid by:</i> State, county, and/or other sources	attorney, other appointed or volunteer attorney	<i>Paid by:</i> Attorney General	<i>Paid by:</i> SCCID (volunteers not paid)
	<i>Paid by:</i> SCCID (volunteers not paid)		<i>Attorney for Non-Indigent:</i> Private attorney
	<i>Attorney for Non-Indigent:</i> Private attorney		<i>Paid by:</i> Defendant or someone on his behalf
	<i>Paid by:</i> Defendant or someone on his behalf		
		Sexually-Violent Predator (SVP)	
		<u>Prosecution (State)</u>	<u>SVP Respondent (Individual)</u>
		<i>Attorney:</i> Attorney General	<i>Attorney:</i> 608 contract attorney
		<i>Paid by:</i> Attorney General	<i>Paid by:</i> SCCID
		Asset Forfeiture Cases	
		<u>Prosecution (State)</u>	<u>Defendant (Individual or Innocent Owner)</u>
		<i>Atty:</i> Solicitor or contract attorney	<i>Atty:</i> Private attorney
		<i>Paid by:</i> Solicitor, county, city, or law enforcement	<i>Paid by:</i> Defendant or someone on his behalf
Requests for Search Warrants/Orders		Summary Court (Magistrate/Municipal Court) Appeals	
<u>Prosecution (State/County)</u>	<u>Defendant, Suspect, or Other (Individual)</u>	<u>Prosecution (State, County, or Municipality)</u>	<u>Defendant (Individual)</u>
<i>Attorney:</i> Law enforcement (occasionally solicitor)	N/A	<i>Attorney:</i> Solicitor or municipal atty	<i>Attorney:</i> New or same as in Summary Court
<i>Paid by:</i> Law enforcement or solicitor		<i>Paid by:</i> State, county, or municipality	<i>Paid by:</i> Same as in Summary Court (or if new attorney, the defendant or someone on his behalf)

FAMILY COURT

Cases heard⁵²

Juvenile Delinquency Cases-Criminal Offenses and Status Offenses

Juvenile Delinquency Actions

Prosecution (State)

Attorney: Solicitor

Paid by: Solicitor

Defendant (Juvenile)

Atty for Indigent: Public Defender, Rule 608 contract attorney, other appointed or volunteer attorney

Paid by: Public Defender or SCCID (volunteers not paid)

Attorney for Non-Indigent: Private attorney

Paid by: Defendant or someone on his behalf

SUMMARY COURTS

MAGISTRATE (COUNTY) COURT

Cases heard (Trial or Plea)

Criminal offenses as set by state statute generally carrying no more than 90 days and/or a fine, including traffic offenses that occur in the unincorporated areas of the county, as well as violations of county ordinances

Prosecution (State/County)

Attorney: Solicitor, county prosecutor, or law enforcement

Paid by: Solicitor, county, or law enforcement

Defendant (Individual)

Attorney for Indigent: Public Defender, Rule 608 contract attorney, appointed or volunteer attorney

Paid by: Public Defender (if county has contracted with PD), SCCID (Rule 608 contract attorney), or county (volunteer attorneys not paid)

Attorney for Non-Indigent: Private attorney

Paid by: Defendant or someone on his behalf

Bond Settings and Preliminary Hearings for General Sessions Cases

Prosecution (State/County)

Attorney: Solicitor, county prosecutor, or law enforcement

Paid by: Solicitor, county, or law enforcement

Defendant (Individual)

Atty for Indigent: Public Defender, Rule 608 contract attorney, appointed or volunteer attorney

Paid by: Public Defender (if county has contracted with PD), SCCID (Rule 608 contract attorney), or county (volunteer attorneys not paid)

Attorney for Non-Indigent: Private attorney

Paid by: Defendant or someone on his behalf

Requests for Arrest and Search Warrants

Prosecution (State/County)

Attorney: Law enforcement (rarely solicitor)

Paid by: Law enforcement or solicitor

Defendant, Suspect, or Other (Individual)

N/A

MUNICIPAL (CITY/TOWN) COURT

Cases heard

Criminal offenses as set by state statute generally carrying no more than 90 days and/or a fine, including traffic offenses, that occur within the city/town, as well as violations of municipal ordinances.

Prosecution (State or Municipality)

Attorney: Solicitor, city prosecutor, or law enforcement

Paid by: Solicitor, city, or law enforcement

Defendant (Individual)

Attorney for Indigent: Public Defender, Rule 608 contract attorney, appointed or volunteer attorney

Paid by: Public Defender (if city has contracted with PD), SCCID (Rule 608 contract attorney), or city (volunteer attorneys not paid)

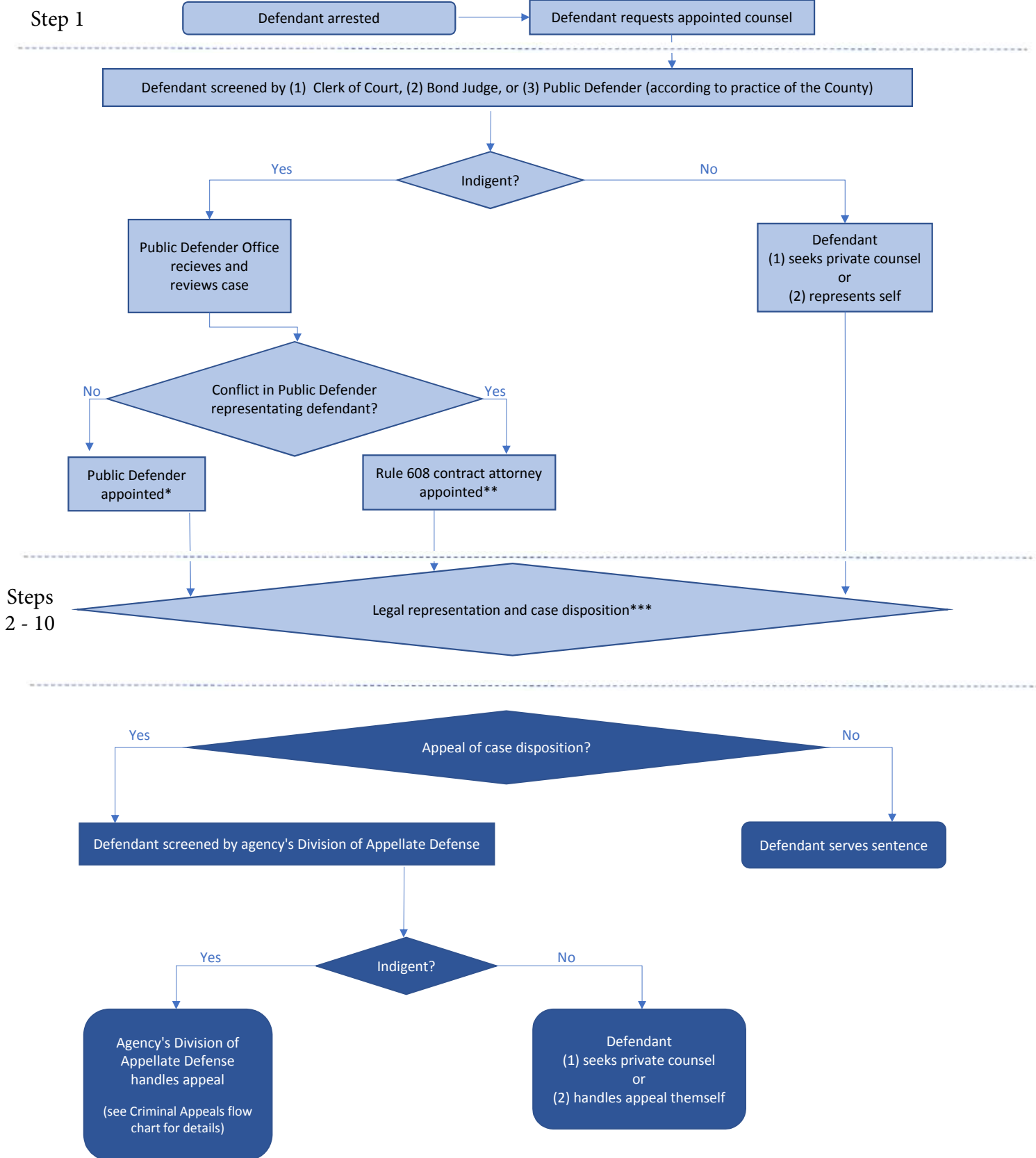
Attorney for Non-Indigent: Private attorney

Paid by: Defendant or someone

Adult Criminal Case, including death penalty - Circuit and Magistrate Court

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

Flow Chart as of June 2018



*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.

Figure 4. Flow chart summarizing steps in an adult criminal case, including death penalty cases.

Table 3. Actions required to seek justice in all adult criminal cases, except capital murder.

Adult Criminal Case – All Criminal Cases, EXCEPT Capital Murder		
Step	Actions Required to Move Case Forward	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; and (3) Law enforcement serves</p> <p><i>Note: See additional comments in “Warrant Approval” section</i></p>
2	Bond - Initial	<p>Magistrate sets</p> <p><i>Note: Magistrates cannot set bond for certain charges, including murder (for those, Circuit Court judge must set bond).</i></p>
3	<p>Preliminary Hearing*</p> <p><i>*A hearing to review whether probable cause existed to charge the defendant.</i></p>	<p>Magistrate schedules hearing after defendant requests one (defendant may request a hearing, but is not required to).</p> <p><i>Note: Once a case is indicted (which requires the grand jury to find that probable cause exists that the defendant committed the crime for which the indictment is sought), a defendant is not entitled to a preliminary hearing.</i></p>
4	<p>Bond Hearing*</p> <p><i>*Setting for those charges for which only the Circuit Court can set bond or reconsideration/revocation of a bond set by a Magistrate or by another Circuit Court judge</i></p>	<p>Defendant or solicitor requests hearing Solicitor schedules hearing Circuit court judge decides at hearing</p>
5	First Appearance	Solicitor schedules
6	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>
7	<p>Discovery/Pre-Trial Motions</p> <p><i>* Discovery is an ongoing process, as is the conduct of pre-trial motion hearings</i></p>	<p>Solicitor & Defense Attorney conduct 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 and 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 other counties the judge leaves the scheduling of trials to the solicitors.</i></p>

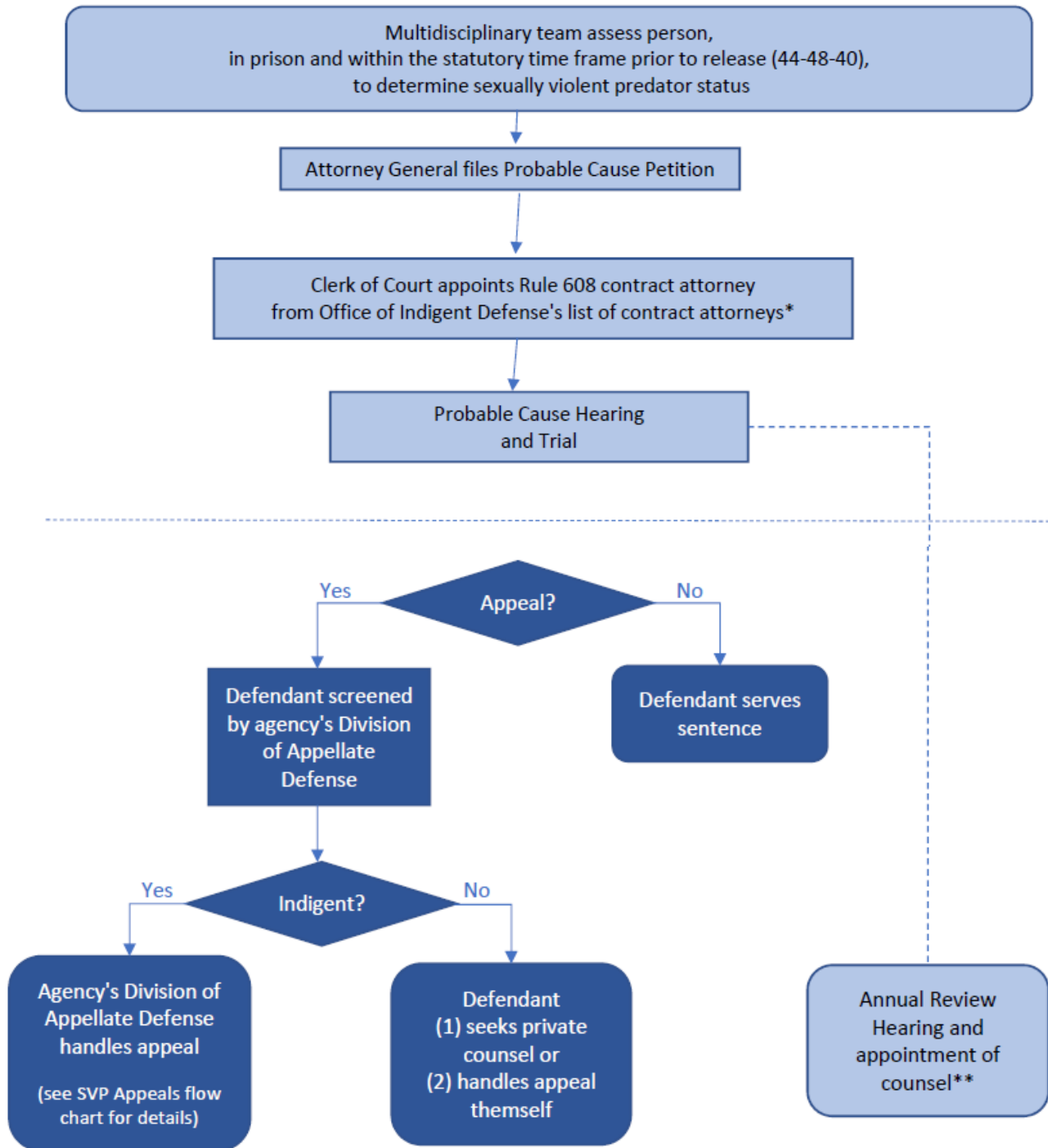
Table 4. Actions required to seek justice in adult capital murder cases.

Adult Criminal Case - Capital Murder		
Steps	Actions required to Move Case Forward ⁵⁷	Entity Responsible for the Action
1	Arrest Warrant	Arrest Warrant - (1) Law enforcement requests, (2) County Magistrate issues; and (3) Law enforcement serves <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 (defendant may request a hearing, but is not required to) <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 and defense attorney conduct 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 and defense attorney conduct
13	Plea Hearing	Assigned circuit court judge schedules hearing
14	Jury Trial	Scheduled by assigned circuit court judge

Civil Sexually Violent Predator (SVP) Case

Flow Chart as of April 2018

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



*§ 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.

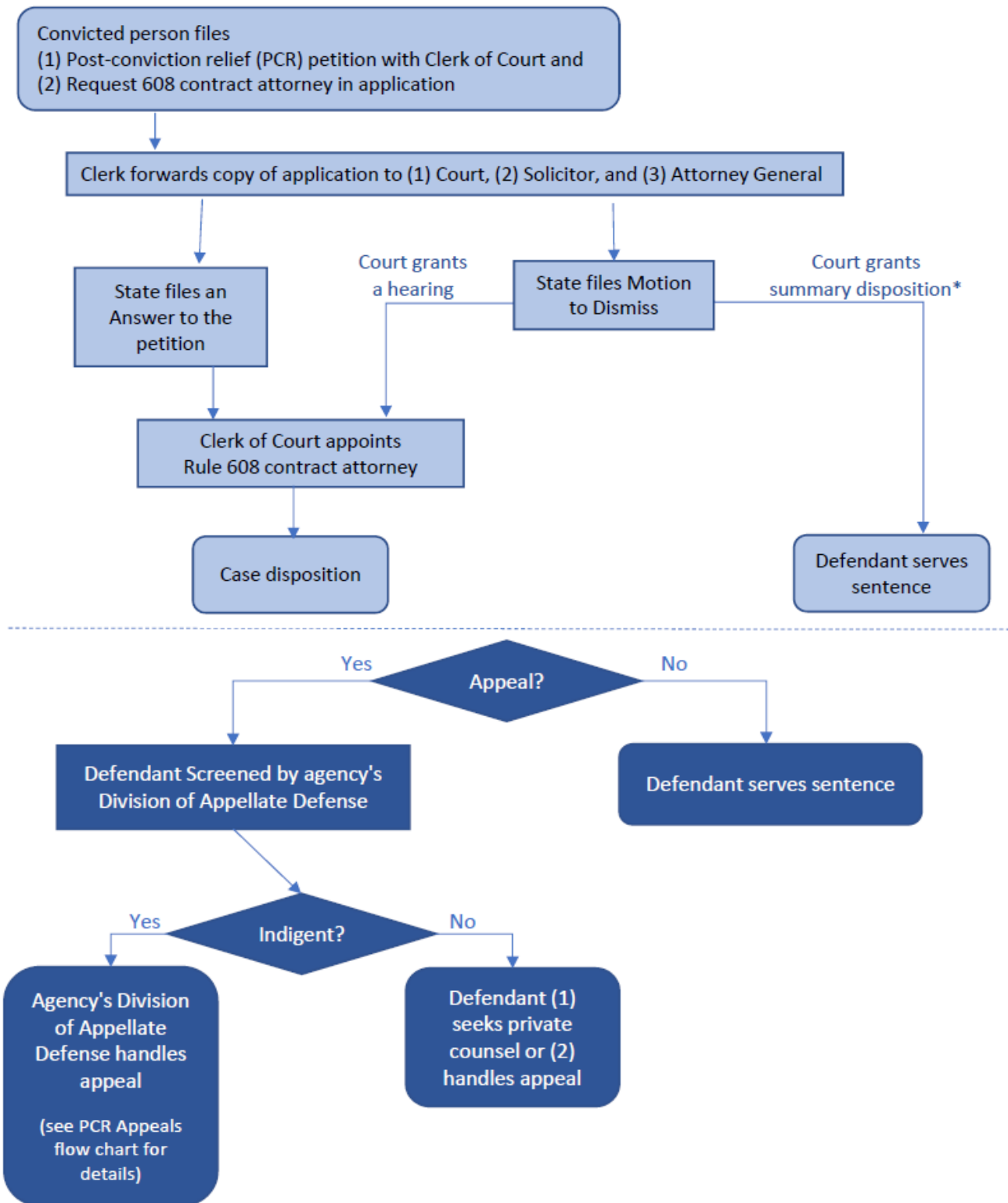
***After the probable cause hearing, the clock starts and every year there is a review of the probable cause hearing to determine if probable cause still exists. This annual review may occur prior to conclusion of an appeal.

Figure 5. Flow chart summarizing steps in a sexually violent predator case.⁵⁸

Criminal Post-Conviction Relief (PCR) Case

Flow Chart as of April 2018

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



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

Figure 6. Flow chart summarizing steps in a post-conviction relief case.⁵⁹

Table 5. Actions required to seek justice in juvenile criminal cases (crimes and status offenses).⁶⁰

Juvenile Criminal Case - Family Court		
Step	Actions required to move case forward ⁶¹	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, school, or family
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 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

Department of Social Services Abuse/Neglect Case - Family Court

Flow Chart as of June 2018

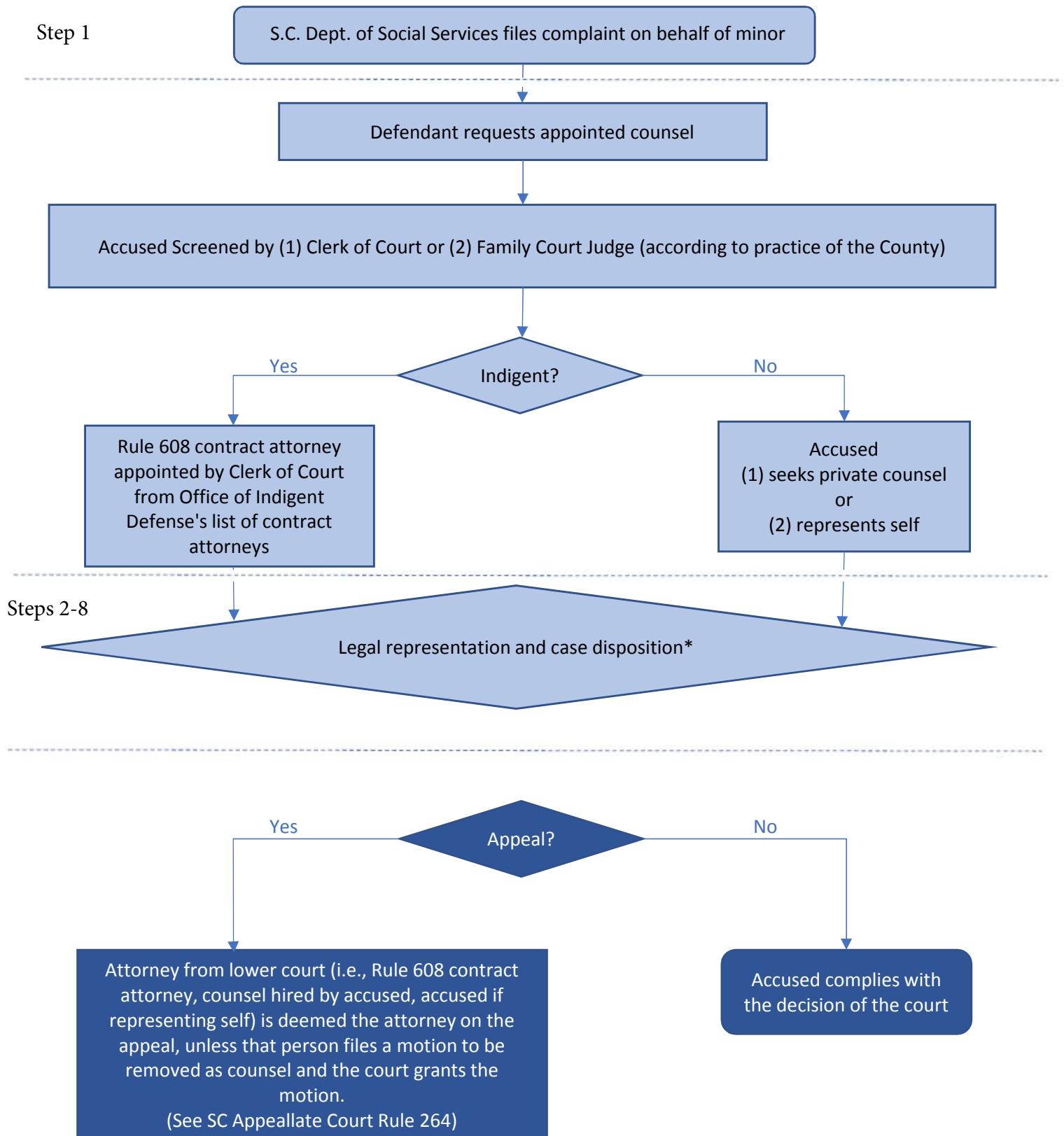


Figure 7. Flow chart summarizing steps in a Family Court case.

*Case disposition include the Court making either a finding of abuse/neglect or no finding of abuse and neglect.

Overview of Indigency Applications and Screening

Table 6 provides information on the differences in how each court in each county screens for whether an individual qualifies as an indigent, and thus is entitled to legal representation from the state. Appendix D includes a report the agency produced in November 2017 regarding indigency screening.

Summary

- Number of applicants and disposition of applications
 - State law requires the clerk of court or other appropriate official to maintain a record of all persons applying for representation and the disposition of the application.⁶³ State law further requires the clerk of court or other appropriate official to provide this information to the Office of Indigent Defense on a monthly basis as well as reporting the amount of funds collected or waived.⁶⁴ While this has been the law of South Carolina for the past ten years, SCCID asserted in a 2017 memo that there has been no statistics recorded that provide a breakdown of the number of applicants for indigent representation accepted or rejected.⁶⁵ However, since the 2017 memo, SCCID has tried to compile recent screening data.⁶⁶ The information compiled is from Public Defender Offices that conduct screenings.⁶⁷
- Information from Applicants

Proof of Income Required

Below are examples of documentation required in different counties and courts. Note there is no uniformity across the state, nor sometimes within a single county.

Affidavit only (SCID) in all courts

- Entire 3rd circuit - Clarendon; Lee; Sumter; Williamsburg
- Entire 4th circuit - Chesterfield; Darlington; Dillon; Marlboro
- Entire 5th circuit - Kershaw; Richland
- Entire 6th circuit - Chester; Fairfield; Lancaster
- Entire 7th circuit - Cherokee; Spartanburg
- Entire 10th circuit - Anderson; Oconee
- Entire 15th circuit - Georgetown; Horry
- Entire 16th circuit - Union; York

1st circuit
<ul style="list-style-type: none"> Dorchester - All courts affidavit only Calhoun - All courts affidavit PLUS may ask for pay stub, if individual is employed; Orangeburg - All courts affidavit PLUS may ask for pay stub, if individual is employed;
2 nd circuit
<ul style="list-style-type: none"> Bamberg - All courts affidavit only Barnwell - All courts affidavit only Aiken - Affidavit PLUS documentation such as pay stubs, monthly bills, proof of spouse income, statement from employer, lease, etc.
8 th circuit
<ul style="list-style-type: none"> Newberry - All courts affidavit only Greenwood - All courts affidavit PLUS documentation such as pay stubs, monthly bills, proof of spouse income, statement from employer, lease, etc.

<ul style="list-style-type: none"> • Abbeville - Depends on the court <ul style="list-style-type: none"> ○ General Sessions - Affidavit PLUS may ask for pay stub, if individual is employed; ○ Juvenile/DSS - Affidavit PLUS may ask for pay stub, if individual is employed; ○ Magistrate - Affidavit only • Laurens - Depends on the court <ul style="list-style-type: none"> ○ General Sessions - Affidavit PLUS question/interview applicant about information in affidavit; ○ Juvenile/DSS - Affidavit only ○ Magistrate - Affidavit only
<p>9th Circuit</p> <ul style="list-style-type: none"> • Charleston - All courts affidavit PLUS question/interview applicant about information in affidavit; • Berkeley - Depends on the court <ul style="list-style-type: none"> ○ General Sessions - Affidavit PLUS question/interview applicant about information in affidavit; ○ Juvenile/DSS - Affidavit only ○ Magistrate - All courts affidavit PLUS question/interview applicant about information in affidavit;
<p>11th circuit</p> <ul style="list-style-type: none"> • McCormick - All courts affidavit only • Saluda - All courts affidavit only • Edgefield - All courts affidavit PLUS question/interview applicant about information in affidavit; • Lexington - Depends on the court <ul style="list-style-type: none"> ○ General Sessions - Affidavit PLUS sometimes public defender checks tax records to see if person has property in their name: ○ Juvenile/DSS - Affidavit only ○ Magistrate - Affidavit PLUS sometimes public defender checks tax records to see if person has property in their name:
<p>12th circuit</p> <ul style="list-style-type: none"> • Marion - All courts affidavit only • Florence - All courts affidavit PLUS documentation such as pay stubs, monthly bills, proof of spouse income, statement from employer, lease, etc. •
<p>13th circuit</p> <ul style="list-style-type: none"> • Pickens - All courts affidavit only • Greenville - All courts affidavit PLUS documentation such as pay stubs, monthly bills, proof of spouse income, statement from employer, lease, etc. •
<p>14th circuit</p> <ul style="list-style-type: none"> • Beaufort - All courts affidavit only • Colleton - All courts affidavit only • Hampton - All courts affidavit only • Jasper - All courts affidavit only • Allendale - All courts affidavit PLUS may ask for pay stub, if individual is employed;

Income/assets considered:

Whose income/assets are considered	General Sessions	Magistrate	Juveniles / DSS
Applicant only	14	14	0
Applicant and spouse, if married	22	22	0
Applicant and spouse	3	2	0
Applicant and spouse, if spouse works	1	1	0
Applicant and spouse, if rely on spouse's income	1	1	0
Applicant and spouse, if married, living together and working	1	0	0
Applicant only, but consider dependent children	1	0	0
Applicant only, but consider dependent info to determine poverty	1	1	0
Applicant, spouse and dependent info		1	0
Household – all working people in the home	1	1	0
Household - everyone in the house	1	2	0
Parents	0	0	46

Entity screening application

- Based on information SCCID had received as of July 2017, the breakdown of what entity screens is as follows⁶⁸:
 - Clerk of Court - 21 counties
 - Magistrate (County) or Municipal (City or Town) Bond Court Judge - 14 counties
 - Public Defender Office - 10 counties
 - Greenville County has their own screening office, which also conducts screening for Pickens County jail cases (clerk screens non-jail cases).
- “In several counties the judge may do an initial screening but the clerk of court office may rescreen if there is still a question of indigency or the person ‘re-applies.’ Also, in accordance with Rule 602, SCACR, if ‘that officer’ is unable to make a determination of whether the accused is indigent the determination shall be made by the court in which the matter is to be heard.”⁶⁹
- According to SCCID, “to ensure the legitimacy of the screening process, it is essential that screeners be free of any conflict of interest or other potential ethical pitfalls.”⁷⁰ The screening process should not:
 - overly empower the solicitor;
 - cast doubt on the public defender’s loyalty to the client; or
 - cast doubt on the presiding judge’s impartiality.⁷¹

Table 6. Differences in how counties and courts screen for whether an individual qualifies as an indigent, and thus is entitled to legal representation from the state.

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Abbeville	General Sessions (GS)	Clerk of Court	Clerk goes to detention center	\$40 fee is collected unless deferred until case disposed; then fee added to sentence sheet. Judge is only person who can fully waive fee, usually done in court	Sometimes have them bring paycheck stubs. Defendants are informed that if they are not truthful about info provided, PD can verify and determine if make too much income to qualify for services.	SCJD Form	Applicant and Spouse income if married, living together and working	8
Abbeville	Juveniles/DSS	Clerk of Court - Family Court Division	Clerk goes to detention center	\$40 fee is collected unless deferred until case disposed; then fee added to sentence sheet. Judge is only person who can fully waive fee, usually done in court	Sometimes have them bring paycheck stubs. Defendants are informed that if they are not truthful about info provided, PD can verify and determine if make too much income to qualify for services.	SCJD Form	Parents	8
Abbeville	Magistrate's	Magistrate's Office/Magistrate Screens	Most don't apply until after out of jail	\$40 fee; judge has questionnaire to determine if to waive	Like to have, but not required	SCJD Form	Applicant and Spouse if married	8

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Aiken	General Sessions (GS)	Magistrate screens at bond court; Public Defender accepts applications and supporting documents for walk-ins and forward them to the bond judge for screening.	PD office visits jail daily to complete applications and forward them to the bond judge. Approved applications are returned to the PD office.	\$40 fee	PD provides list of documents that can be presented to prove income	SCJD Form	Applicant and Spouse if married	2
Aiken	Juveniles/DSS	Public Defender office accepts applications and send to magistrate for screening	N/A	\$40 fee is collected	PD provides list of documents that can be presented to prove income	SCJD Form	Parents	2
Aiken	Magistrate's	Magistrate screens at bond court; Public Defender accepts applications and supporting documents for walk-ins and forward them to the bond judge for screening.	PD office visits jail to complete applications	\$40 fee is collected	PD provides list of documents that can be presented to prove income	SCJD Form	Applicant and Spouse if married	2

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Allendale	General Sessions (GS)	Clerk of Court	Clerk of Court	Collect in every case, try to get them to pay even at first appearance, only waived at jail	Copy of check stub if they say they work - If they don't have any documentation, just rely on info provided on application	SCCID Form	Applicant Only	14
Allendale	Juveniles/DSS	Clerk of Court	N/A	Collect in every case, try to get them to pay even at first appearance, only waived at jail	Copy of check stub if they say they work - If they don't have any documentation, just rely on info provided on application	SCCID Form	Parents	14
Allendale	Magistrate's	Chief magistrate's office says all appointments handled through county clerk of court	Clerk of	Collect in every case, try to get them to pay even at first appearance, only waived at jail	Copy of check stub if they say they work - If they don't have any documentation, just rely on info provided on application	SCJD Form	Applicant	14

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Anderson	General Sessions (GS)	Clerk of Court screens	Screeners from PD office does jail cases; If person gets PD in jail and is released, has 36-48 hours to come to CoC to reapply and pay \$40 to continue representation by PD	\$40 is collected. If person does not have money, give them application to take and bring back when they have it. Judge only one that can waive.	None	SCJD Form	Applicant only; Dependent info considered to determine poverty.	10
Anderson	Juveniles/DSS	Clerk of Court screens - Apply in Family Court Division	Screeners from PD office does jail cases; If person gets PD in jail and is released, has 36-48 hours to come to CoC to reapply and pay \$40 to continue representation by PD	\$40 is collected. If person does not have money, give them application to take and bring back when they have it. Judge only one that can waive.	None	SCJD Form	Parents	10
Anderson	Magistrate's	Clerk of Court screens	Screeners from PD office does jail cases; If person gets PD in jail and is released, has 36-48 hours to come to CoC to reapply and pay \$40 to continue representation by PD	\$40 is collected. If person does not have money, give them application to take and bring back when they have it. Judge only one that can waive.	None	SCJD Form	Applicant only; Dependent info considered to determine poverty.	10

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Bamberg	General Sessions (GS)	Magistrate Screens (2 magistrates assigned); Send approved applicant to clerk of court where case is to pay \$40 fee and be formally appointed	Apply at bond court or after. Jail cases approval forwarded to clerk of court for appointment of PD.	Pay at whatever court, if don't pay left up to clerk of court	None	SCJD Form	Just applicant	2
Bamberg	Juveniles/DSS	Clerk of Court screens applications	N/A	No Information provided	No Information provided	SCJD Form	Parents	2
Bamberg	Magistrate's	Magistrate Screens (2 magistrates assigned); Send approved applicant to clerk of court where case is to pay \$40 fee and be formally appointed	Apply at bond court or after. Jail cases approval forwarded to clerk of court for appointment of PD.	Pay at whatever court, if don't pay left up to clerk of court	None	SCJD Form	Just applicant	2
Barnwell	General Sessions (GS)	Clerk of Court screens all cases	Jail transports those that are in jail to clerk's office to apply	\$40 - allow them to apply without money; notify judge if hasn't been paid when they come to court	None	SCJD Form	Applicant and Spouse if married	2
Barnwell	Juveniles/DSS	Clerk of Court screens all cases - Apply in Family Court Division	Jail transports those that are in jail to clerk's office to apply	\$40 - allow them to apply without money; notify judge if hasn't been paid when they come to court	None	SCJD Form	Parents	2
Barnwell	Magistrate's	Clerk of Court screens all cases	Jail transports those that are in jail to clerk's office to apply	\$40 - allow them to apply without money; notify judge if hasn't been paid when they come to court	None	SCJD Form	Applicant and Spouse if married	2

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Beaufort	General Sessions (GS)	Clerk of Court screens all cases	If defendant in jail for 10 days, do form at jail and that is transmitted to CoC with paperwork, then CoC double-checks info to make sure still same when they come in. IF get out before 10 days, do whole procedure at CoC office.	\$40 cash only; required in all cases. Only circuit judge can waive. For jail cases, \$40 is added at disposition	None	SCCID Form	Applicant Only	14
Beaufort	Juveniles/DSS	Clerk of Court	N/A	\$40 cash only; required in all cases. Only circuit judge can waive. For jail cases, \$40 is added at disposition	None	SCJD Form	Parents	14
Beaufort	Magistrate's	Clerk of Court screens all cases	If defendant in jail for 10 days, do form at jail and that is transmitted to CoC with paperwork, then CoC double-checks info to make sure still same when they come in. IF get out before 10 days, do whole procedure at CoC office.	\$40 cash only; required in all cases. Only circuit judge can waive. For jail cases, \$40 is added at disposition	None	SCCID Form	Applicant Only	14

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Berkeley	General Sessions (GS)	Magistrate Judge conducts screening	Paragraph form - Info not included	\$40 application fee collected	None - but judge questions applicant about information that helps give accurate picture of applicant's financial status	SCJD Form	Applicant and Spouse if married	9
Berkeley	Juveniles/DSS	Public Defender accepts the applications and forward to the Clerk of Court office	PINI	\$40 fee collected	None	SCJD Form	Parents	9
Berkeley	Magistrate's	Magistrate Judge conducts screening	PINI	\$40 fee collected	None - but judge questions applicant about information that helps give accurate picture of applicant's financial status	SCJD Form	Applicant and Spouse if married	9
Calhoun	General Sessions (GS)	Clerk of Court screens all cases	Captain McCutcheon gives forms to inmates, and she mails them to CoC.	\$40 waived in some cases - mostly if incarcerated; they don't tack it on at the end for jail cases.	If borderline, may ask for wage document or tax return. In most cases so clear it's not needed	SCJD Form	Applicant and Spouse if form says has spouse that works.	1
Calhoun	Juveniles/DSS	Clerk of Court screens all cases - Apply in Family Court Division	Captain McCutcheon gives forms to inmates, and she mails them to CoC.	\$40 waived in some cases - mostly if incarcerated; they don't tack it on at the end for jail cases.	If borderline, may ask for wage document or tax return. In most cases so clear it's not needed	SCJD Form	Parents	1
Calhoun	Magistrate's	Clerk of Court screens all cases	Captain McCutcheon gives forms to inmates, and she mails them to CoC.	\$40 waived in some cases - mostly if incarcerated; they don't tack it on at the end for jail cases.	If borderline, may ask for wage document or tax return. In most cases so clear it's not needed	SCJD Form	Applicant and Spouse if form says has spouse that works.	1

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Charleston	General Sessions (GS)	Magistrate screens at bond court; Public Defender conducts screening for walk ins. If PD denies application, Circuit Judge can review	Staff handle walk-in and jail applicants	Collects \$40 application fee	Question applicant to obtain accurate picture of financial status	SCJD Form	Applicant and Spouse if married	9
Charleston	Juveniles/DSS	DJJ conducts screening and Public Defender verifies.	Staff handle walk-in and jail applicants	\$40 fee collected	Question applicant to obtain accurate picture of financial status	SCJD Form	Parents	9
Charleston	Magistrate's	Magistrate screens at bond court; Public Defender conducts screening for walk ins. If PD denies application, Judge can review	Staff handle walk-in and jail applicants	\$40 fee collected	Question applicant to obtain accurate picture of financial status	SCJD Form	Applicant and Spouse if married	9
Cherokee	General Sessions (GS)	Public Defender conducts screening	Paragraph Form - Information not included	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	7
Cherokee	Juveniles/DSS	Public Defender conducts screening	Paragraph Form - Information not included	\$40 fee unless court waives	None	SCJD Form	Parents	7
Cherokee	Magistrate's	Public Defender conducts screening	Paragraph Form - Information not included	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	7

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Chester	General Sessions (GS)	Clerk of Court screens all cases	PD office screener collects applications and brings to Clerk of Court	\$40 collected; must go before judge to waive	None	SCJD Form	Applicant, Spouse	6
Chester	Juveniles/DSS	Clerk of Court Screens all cases	n/a	\$40 collected; must go before judge to waive	None	SCJD Form	Parents	6
Chester	Magistrate's	Clerk of Court screens all cases	PD office screener collects applications and brings to Clerk of Court	\$40 collected; must go before judge to waive	None	SCJD Form	Applicant, Spouse	6
Chesterfield	General Sessions (GS)	Magistrate screens GS charges in bond court. If person wants to be reviewed later, he must go to the CoC to complete application	Magistrate screens and assigns to Public Defender	\$40 fee unless court waives	None	SCJD Form	Applicant	4
Chesterfield	Juveniles/DSS	Clerk of Court screens	N/A	\$40 fee unless court waives	None	SCJD Form	Parents	4
Chesterfield	Magistrate's	Magistrate screens GS charges in bond court. If person wants to be reviewed later, he must go to the CoC to complete application	Magistrate screens and assigns to Public Defender	\$40 fee unless court waives	None	SCJD Form	Applicant	4

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Clarendon	General Sessions (GS)	Applications distributed at bond hearing. If person released on bond and wants a PD, they must take application to CoC who forwards it to PD office for screening.	Turn in application to the jail who in turn forwards the application to the PD office for screening	\$40 fee unless waived by court	None	SCJD Form	Applicant and Spouse if married	3
Clarendon	Juveniles/DSS	Applications distributed at bond hearing. If person released on bond and wants a PD, they must take application to CoC who forwards it to PD office for screening.	Turn in application to the jail who in turn forwards the application to the PD office for screening	\$40 fee unless court waives	None	SCJD Form	Parents	3
Clarendon	Magistrate's	Applications distributed at bond hearing. If person released on bond and wants a PD, they must take application to CoC who forwards it to PD office for screening.	Turn in application to the jail who in turn forwards the application to the PD office for screening	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	3

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Colleton	General Sessions (GS)	In-Jail, Bond Court screens. Out-of-Jail, Clerk of Court Screens	Bond Court is first chance to apply; if apply there and judge approves them for PD, paperwork comes to CoC and they forward to PD. If PD denied at bond court and changes occur, can come to clerk's office and reapply. If defendant declines to apply at bond court and wants to apply later, come to Clerk of Court.	Don't pay \$40 fee at bond court, must come to CoC to pay. If apply at CoC, pay then; don't take written application without fee. They pre-screen verbally to make sure applicant will qualify; had problem with people getting hostile if took money and then told them they didn't qualify and no refund. If applicant got approved in bond court and never paid, then gets attached to case at end; only problem is if charges are dismissed, no way to collect.	None	SCJD Form	Just applicant	14
Colleton	Juveniles/DSS	In-Jail, Bond Court screens. Out-of-Jail, Clerk of Court Screens (Apply in Family Court Division)	Bond Court is first chance to apply; if apply there and judge approves them for PD, paperwork comes to CoC and they forward to PD. If PD denied at bond court and changes occur, can come to clerk's office and reapply. If defendant declines to apply at bond court and wants to apply later, come to Clerk of Court.	Don't pay \$40 fee at bond court, must come to CoC to pay. If apply at CoC, pay then; don't take written application without fee. They pre-screen verbally to make sure applicant will qualify; had problem with people getting hostile if took money and then told them they didn't qualify and no refund. If applicant got approved in bond court and never paid, then gets attached to case at end; only problem is if charges are dismissed, no way to collect.	None	SCJD Form	Parents	14

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Colleton	Magistrate's	Clerk of Court	Bond Court is first chance to apply; if apply there and judge approves them for PD, paperwork comes to CoC and they forward to PD. If PD denied at bond court and changes occur, can come to clerk's office and reapply. If defendant declines to apply at bond court and wants to apply later, come to Clerk of Court.	Don't pay \$40 fee at bond court, must come to CoC to pay. If apply at CoC, pay then; don't take written application without fee. They pre-screen verbally to make sure applicant will qualify; had problem with people getting hostile if took money and then told them they didn't qualify and no refund. If applicant got approved in bond court and never paid, then gets attached to case at end; only problem is if charges are dismissed, no way to collect.	None	SCJD Form	Applicant	14
Darlington	General Sessions (GS)	Magistrate screens GS charges in bond court. If person wants to be reviewed later, must go to CoC to complete application	Magistrate screens and assigns to Public Defender	\$40 fee unless court waives	None	SCJD Form	Applicant	4
Darlington	Juveniles/DSS	Clerk of Court screens	N/A	\$40 fee unless court waives	None	SCJD Form	Parents	4
Darlington	Magistrate's	Magistrate screens GS charges in bond court. If person wants to be reviewed later, must go to CoC to complete application	Magistrate screens and assigns to Public Defender	\$40 fee unless court waives	None	SCJD Form	Applicant	4

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Dillon	General Sessions (GS)	Magistrate screens GS charges in bond court. If person wants to be reviewed later, must go to CoC to complete application	Magistrate screens and assigns to Public Defender	\$40 fee unless court waives	None	SCJD Form	Applicant	4
Dillon	Juveniles/DSS	Clerk of Court	N/A	\$40 fee unless court waives	None	SCJD Form	Parents	4
Dillon	Magistrate's	Magistrate screens GS charges in bond court. If person wants to be reviewed later, must go to CoC to complete application	Magistrate screens and assigns to Public Defender	\$40 fee unless court waives	None	SCJD Form	Applicant	4
Dorchester	General Sessions (GS)	Public Defender	Application forwarded to clerk of court	\$40 fee is collected	None. Applicant must bring in all paperwork, charging documents, bail forms, etc.	SCJD Form	Applicant and Spouse if married	1
Dorchester	Juveniles/DSS	Public Defender	N/A	\$40 fee is collected	None. Applicant must bring in all paperwork, charging documents, bail forms, etc.	SCJD Form	Parents	1
Dorchester	Magistrate's	Public Defender	Application forwarded to clerk of court	\$40 fee is collected	None	SCJD Form	Applicant and Spouse if married	1

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Edgefield	General Sessions (GS)	Magistrate interviews people while in jail, then send paperwork to CoC.	Magistrate interviews people while in jail, then send paperwork to CoC.	\$40 paid at CoC Office if applicant qualifies. If person waives PD during interview and later wants PD, must go to CoC office and pay \$40.	Verification of questionable information required if interview raises concerns, but not all the time.	SCJD Form	Applicant and Spouse if married	11
Edgefield	Juveniles/DSS	Magistrate interviews people while in jail, then send paperwork to CoC.	N/A	\$40 paid at CoC Office if applicant qualifies. If person waives PD during interview and later wants PD, must go to CoC office and pay \$40.	Verification of questionable information required if interview raises concerns, but not all the time.	SCJD Form	Parents	11
Edgefield	Magistrate's	Magistrate interviews people while in jail, then send paperwork to CoC.	Magistrate interviews people while in jail, then send paperwork to CoC.	\$40 paid at CoC Office if applicant qualifies. If person waives PD during interview and later wants PD, must go to CoC office and pay \$40.	Verification of questionable information required if interview raises concerns, but not all the time.	SCJD Form	Applicant and Spouse if married	11
Fairfield	General Sessions (GS)	CoC does all screening. Defendant completes form and clerk working desk compares reported income to poverty guidelines table and approve or deny application.	PD office screener collects applications and brings to Clerk of Court	\$40 fee unless court waives	Take people at their word and do not verify. Information about property and debts is not considered or verified. If person lists real property but his income is at or under guidelines, application is approved.	SCJD Form	Applicant, Spouse	6
Fairfield	Juveniles/DSS	Clerk of Court screens all cases	N/A	\$40 fee unless court waives	None	SCJD Form	Parents	6
Fairfield	Magistrate's	Clerk of Court screens all cases	PD office screener collects applications and brings to Clerk of Court	\$40 fee unless court waives	None	SCJD Form	Applicant and spouse	6

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Florence	General Sessions (GS)	Magistrate screens GS charges in bond court. If person wants to be reviewed later, must go to CoC to complete application	Clerk of Court	If person goes to CoC and fills out application - pay \$40	PD office requires proof of income or notarized statement from person supporting them.	SCJD Form	Applicant and Spouse if married	12
Florence	Juveniles/DSS	Clerk of Court	N/A	If person goes to CoC and fills out application - pay \$40	PD office requires proof of income or notarized statement from person supporting them.	SCJD Form	Parents	12
Florence	Magistrate's	Magistrate screens GS charges in bond court. If person wants to be reviewed later, must go to CoC to complete application. PD office screens Magistrate charges	Clerk of Court	If person goes to CoC and fills out application - pay \$40	PD office requires proof of income or notarized statement from person supporting them.	SCJD Form	Applicant and Spouse if married	12

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Georgetown	General Sessions (GS)	Georgetown Public Defender Office	Every two weeks Georgetown jail list reviewed to see if any General Sessions clients are there. Because they were unable to make their bond it is assumed they need services. File is opened for them after checking the Clerk of Court website to determine if they have retained an attorney.	Pay with a Postal Money Order or Bank Money Order. Money Orders are sent to the Horry County Public Defender Office quarterly and a single check to the state.	None. If ineligible because exceed poverty guidelines, Paralegal informs them of ineligibility.	SCJD Form	Applicant and Spouse if married	15
Georgetown	Juveniles/DSS	Public Defender Office	N/A	Pay with a Postal Money Order or Bank Money Order. Money Orders are sent to the Horry County Public Defender Office quarterly and a single check to the state.	None	SCJD Form	Parents	15

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Georgetown	Magistrate's	Public Defender Office	Every two weeks Georgetown jail list reviewed to see if any General Sessions clients are there. Because they were unable to make their bond it is assumed they need services. File is opened for them after checking the Clerk of Court website to determine if they have retained an attorney.	Pay with a Postal Money Order or Bank Money Order. Money Orders are sent to the Horry County Public Defender Office quarterly and a single check to the state.	None	SCJD Form	Applicant and Spouse if married	15

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Greenville	General Sessions (GS)	Independent Indigent Defense Office (3 FT employees) handles all screening for the county. If denied, may ask court to review application.	Independent Indigent Defense Office (3 FT employees) handles all screening for the county. If denied, may ask court to review application.	\$40 fee collected	Documentation such as pay stubs, monthly bills, proof of spouse income, statement from employer, lease, etc. Staff person asks applicant questions as needed.	SCJD Form	Household – everyone working in the household	13
Greenville	Juveniles/DSS	Independent Indigent Defense Office (3 FT employees) handles all screening for the county. If denied, may ask court to review application.	Independent Indigent Defense Office (3 FT employees) handles all screening for the county. If denied, may ask court to review application.	\$40 fee collected	Documentation such as pay stubs, monthly bills, proof of spouse income, statement from employer, lease, etc. Staff person asks applicant questions as needed.	SCJD Form	Parents	13
Greenville	Magistrate's	Independent Indigent Defense Office (3 FT employees) handles all screening for the county. If denied, may ask court to review application.	Independent Indigent Defense Office (3 FT employees) handles all screening for the county. If denied, may ask court to review application.	\$40 fee collected	Documentation such as pay stubs, monthly bills, proof of spouse income, statement from employer, lease, etc. Staff person asks applicant questions as needed.	SCJD Form	Household – all working people in the home	13

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Greenwood	General Sessions (GS)	In-Jail: PD Office takes them. Out-of-Jail: Clerk of Court screens.	If in jail, can fill out application. PD office picks those up and opens them, bypasses CoC. Can be rescreened if get out of jail and PD feels need.	If don't have money, send to Solicitor's office to get before judge. Most tack to end if get sentenced in addition to \$500 PD fee. \$40 fee not added to sentence of applicants approved in jail.	List provided of documents needed to verify income	SCJD Form	Anyone who lives or works in household	8
Greenwood	Juveniles/DSS	Clerk of Court	N/A	\$40 fee is collected unless waived by court	List provided of documents needed to verify income	SCJD Form	Parents	8
Greenwood	Magistrate's	Magistrate's Court screens	Public Defender screens jail	None	List provided of documents needed to verify income	SCJD Form	Household - everybody in house	8
Hampton	General Sessions (GS)	Clerk of Court screens	Application comes in to CoC for review with arraignment paperwork	\$40 every case. If in jail, Solicitor may say appoint, after trial pay the \$500 PD fee, \$40 not added.	None	SCJD Form	Applicant Only	14
Hampton	Juveniles/DSS	Clerk of Court screens - Apply in Family Court Division	Application comes in to CoC for review with arraignment paperwork	\$40 every case. If in jail, Solicitor may say appoint, after trial pay the \$500 PD fee, \$40 not added.	None	SCJD Form	Parents	14
Hampton	Magistrate's	Clerk of Court screens	Application comes in to CoC for review with arraignment paperwork	\$40 every case. If in jail, Solicitor may say appoint, after trial pay the \$500 PD fee, \$40 not added.	None	SCJD Form	Applicant Only	14

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Horry	General Sessions (GS)	Some apply directly at Horry County Clerk of Court office. All applications scanned into CoC database.	Magistrates screen defendants at detention center. PD office review the jail inmate list and if person remains in jail for more than 10 days, a file is opened if Horry County website does not reflect that they have retained an attorney.	All fees are paid to Horry County Clerk of Court	None	SCJD Form	Applicant; and Spouse, if married	15
Horry	Juveniles/DSS	Clerk of Court Office	N/A	\$40 fee paid to Clerk of Court	None	SCJD Form	Parents	15
Horry	Magistrate's	Clerk of Court Office	Magistrates screen defendants at detention center. PD office review the jail inmate list and if person remains in jail for more than 10 days, a file is opened if Horry County website does not reflect that they have retained an attorney.	\$40 fee paid to Clerk of Court	None	SCJD Form	Applicant; and Spouse if married	15

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Jasper	General Sessions (GS)	In-Jail, Magistrate Screens; Out-of-Jail, Clerk of Court screens	Per CoC, application normally done at the jail, and Magistrate determines if qualified for PD. Sends paperwork to CoC. Upon release, applicant then comes to CoC office to pay \$40 fee and get instructions on how to contact PD.	\$40 cash or money order. For jail cases, jail sends paperwork over.	None	SCJD Form	Detention Center thinks just applicant; know they ask questions about dependents and such.	14
Jasper	Juveniles/DSS	Clerk of Court	N/A	\$40 cash or money order	None	SCJD Form	Parents	14
Jasper	Magistrate's	In-Jail, Magistrate Screens; Out-of-Jail, Clerk of Court screens	Per CoC, application normally done at the jail, and Magistrate determines if qualified for PD. Sends paperwork to CoC. Upon release, applicant then comes to CoC office to pay \$40 fee and get instructions on how to contact PD.	\$40 cash or money order. For jail cases, jail sends paperwork over.	None	SCJD Form	Detention Center thinks just applicant; know they ask questions about dependents and such.	14

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Kershaw	General Sessions (GS)	Cases screened by Magistrate at bond hearing. Refused or waived cases considered 'walk in' applications.	Jail forwards completed application to Public Defender	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	5
Kershaw	Juveniles/DSS	Clerk of Court	N/A	\$40 fee unless court waives	None	SCJD Form	Parents	5
Kershaw	Magistrate's	Domestic Violence Magistrate cases screened by Magistrate at the bond hearing. Other cases not screened at bond hearing. When person comes to court, judge advises of right to counsel and if person wants attorney they are instructed on how to go the CoC to apply and hearing is continued to give them opportunity to go to CoC. Considered 'walk in' applications.	Jail forwards completed application to Public Defender	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	5
Lancaster	General Sessions (GS)	Public Defender Office	PD screens people in jail once a week.	\$40 fee unless court waives	None	SCJD Form	Applicant and spouse	6
Lancaster	Juveniles/DSS	Public Defender Office	N/A	\$40 fee unless court waives	None	SCJD Form	Parents	6
Lancaster	Magistrate's	Public Defender Office	Public Defender screens	\$40 fee unless court waives	None	SCJD Form	Household - everybody in house	6

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Laurens	General Sessions (GS)	Clerk of Court screens	Jail of PD brings forms for jail cases to CoC for review	\$40 application fee - refunded if declined. Jail cases tack on to end of case, but don't pay if not convicted. Often if they tell don't qualify or don't have fee, PD will take before judge and he will waive fee and appoint them. (Depends on judge - some scrutinize more than others)	No documentation on income unless something like work under table or on commission. Then, bring pay stub or W2. If no job, they qualify.	Had own form before SCJD form. Printed in triplicate. Still using that one now, and don't know what will do when those run out. Email copy.	Applicant only. Do consider if they have dependent children.	8
Laurens	Juveniles/DSS	Clerk of Court	N/A	\$40 application fee	None	SCJD Form	Parents	8
Laurens	Magistrate's	Magistrate where case is screened	Jail sends the application to Clerk of Court	\$40 collected - can't take application without it	None	SCJD Form	Applicant	8
Lee	General Sessions (GS)	If person released on bond and wants PD, they must take application and fee to CoC who then forwards it to PD office for screening.	Jail applicants turn in application to jail who forwards it to the PD office for screening.	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	3
Lee	Juveniles/DSS	Take application and fee to Clerk of Court who then forwards it to PD for screening	N/A	\$40 fee unless court waives	None	SCJD Form	Parents	3
Lee	Magistrate's	Take application and fee to Clerk of Court who then forwards it to PD for screening	Jail forwards applications to PD office for screening	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	3

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Lexington	General Sessions (GS)	CoC does all screening. If person out on bond, must go to CoC office to complete application and pay fee.	Either call the CoC office or write the CoC asking for an attorney. The CoC sends an Order of Appointment to the PD and the PD visits the person and completes application.	\$40 fee paid at CoC office if out on bond	None, sometimes PD check tax records to see if person has property in their name.	SCJD Form	Applicant and Spouse if married	11
Lexington	Juveniles/DSS	Clerk of Court does all screening	N/A	\$40 fee paid to clerk of court	None	SCJD Form	Parents	11
Lexington	Magistrate's	CoC does all screening. If person out on bond, must go to CoC office to complete application and pay fee.	Either call the CoC office or write the CoC asking for an attorney. The CoC sends an Order of Appointment to the PD and the PD visits the person and completes application.	\$40 fee paid at CoC office if out on bond	None, sometimes PD check tax records to see if person has property in their name.	SCJD Form	Applicant and Spouse if married	11

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Marion	General Sessions (GS)	Magistrate screens for all cases. Application approved by CoC and sent to PD. If person does not get PD and decides he wants one, must go to CoC office and application is verified.	Clerk of Court	If person goes to CoC and fills out application - pay \$40	None	SCJD Form	Applicant and Spouse if married	12
Marion	Juveniles/DSS	Clerk of Court	N/A	If person goes to CoC and fills out application - pay \$40	None	SCJD Form	Parents	12
Marion	Magistrate's	Magistrate screens for all cases. Application approved by CoC and sent to PD. If person does not get PD and decides he wants one, must go to CoC office and application is verified.	Clerk of Court	If person goes to CoC and fills out application - pay \$40	None	SCJD Form	Applicant and Spouse if married	12
Marlboro	General Sessions (GS)	Magistrate at bond court; otherwise Clerk of Court	Magistrate screens and assigns to Public Defender	\$40 fee unless court waives	None	SCJD Form	Applicant	4
Marlboro	Juveniles/DSS	Clerk of Court	N/A	\$40 fee unless court waives	None	SCJD Form	Parents	4
Marlboro	Magistrate's	Magistrate at bond court; otherwise Clerk of Court	Magistrate screens and assigns to Public Defender	\$40 fee unless court waives	None	SCJD Form	Applicant	4

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
McCormick	General Sessions (GS)	In-jail, Magistrate may screen at bond court. Out-of-Jail, Clerk of Court screens.	Bond court first opportunity. Sometimes Magistrates fill out and send to clerk if didn't apply at bond court.	\$40 have to pay. Go to judge to get waived.	None	SCJD Form	Applicant or Applicant and Spouse if married	11
McCormick	Juveniles/DSS	In-jail, Magistrate may screen at bond court. Out-of-Jail, Clerk of Court screens.	Bond court first opportunity. Sometimes Magistrates fill out and send to clerk if didn't apply at bond court.	\$40 have to pay. Go to judge to get waived.	None	SCJD Form	Parents	11
McCormick	Magistrate's	Magistrate screens	Can apply at bond hearing if arrested. If issued citation, come in to apply.	\$40 charged, waived in jail cases.	Vast majority unemployed, rely on info provided on form.	SCJD Form	Applicant Only	11
Newberry	General Sessions (GS)	According to CoC, screening is done by the Public Defender office. No return call received from the PD office.	Jail sends application to Clerk of Court	\$40 Application fee	None	SCJD Form	Applicant	8
Newberry	Juveniles/DSS	Public Defender	N/A	\$40 application fee	None	SCJD Form	Parents	8
Newberry	Magistrate's	Public Defender	Jail send application to Clerk of Court	\$40 application fee	None	SCJD Form	Applicant	8

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Oconee	General Sessions (GS)	Clerk of Court screens.	PD screener takes applications. On release, must be rescreened by Clerk of Court and pay \$40.	Pay the fee or don't take the application. Must get approval from judge to waive. Jail cases don't pay unless they get out on bond.	None	SCJD Form	If rely on spouse's income, consider it.	10
Oconee	Juveniles/DSS	Clerk of Court screens. Apply in Family Court Division.	PD screener takes applications. On release, must be rescreened by Clerk of Court and pay \$40.	Pay the fee or don't take the application. Must get approval from judge to waive. Jail cases don't pay unless they get out on bond.	None	SCJD Form	Parents Income	10
Oconee	Magistrate's	Clerk of Court screens.	PD screener takes applications. On release, must be rescreened by Clerk of Court and pay \$40.	Pay the fee or don't take the application. Must get approval from judge to waive. Jail cases don't pay unless they get out on bond.	None	SCJD Form	If rely on spouse's income, consider it.	10

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Orangeburg	General Sessions (GS)	Clerk of Court screens all.	Corrections officers bring applications to Clerk of Court. If in jail for a long time and unemployed, then appoint. If not in long, must get income info.	\$40 fee. Have to go to judge to waive. May be added at end if waived. If in jail, waived and added at end.	Pay stub if employed.	SCJD Form	Applicant and Spouse if married	1
Orangeburg	Juveniles/DSS	Clerk of Court screens all. Family Court Division.	Corrections officers bring applications to Clerk of Court. If in jail for a long time and unemployed, then appoint. If not in long, must get income info.	\$40 fee. Have to go to judge to waive. May be added at end if waived. If in jail, waived and added at end.	Pay stub if employed.	SCJD Form	Parents	1
Orangeburg	Magistrate's	Clerk of Court screens all.	Corrections officers bring applications to Clerk of Court. If in jail for a long time and unemployed, then appoint. If not in long, must get income info.	\$40 fee. Have to go to judge to waive. May be added at end if waived. If in jail, waived and added at end.	Pay stub if employed.	SCJD Form	Applicant and Spouse if married	1
Pickens	General Sessions (GS)	Clerk of Court	Clerk of Court	\$40 collected by Clerk	None	SCJD Form	Applicant and Spouse if married	13
Pickens	Juveniles/DSS	Clerk of Court	N/A	\$40 collected by Clerk	None	SCJD Form	Parents	13
Pickens	Magistrate's	Clerk of Court	Clerk of Court	\$40 Collected by Clerk	None	SCJD Form	Applicant and Spouse if married	13

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Richland	General Sessions (GS)	According to CoC, they screen persons for Magistrate and GS charges on Tuesday, Wednesday, and Thursday from 9am to 12 noon and on Thursday afternoons. Person required to bring arrest warrant, bond paperwork, ID and \$40 to CoC office.	Jail forwards completed application to Public Defender	\$40	None	SCJD Form	Applicant and Spouse if married	5
Richland	Juveniles/DSS	Clerk of Court	N/A	\$40	None	SCJD Form	Parents	5
Richland	Magistrate's	According to CoC, they screen persons for Magistrate and GS charges on Tuesday, Wednesday, and Thursday from 9am to 12 noon and on Thursday afternoons. Person required to bring arrest warrant, bond paperwork, ID and \$40 to CoC office.	Jail forwards completed application to Public Defender	\$40	None	SCJD Form	Applicant and Spouse if married	5

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Saluda	General Sessions (GS)	Magistrate Court conducts screening. Defendant offered an attorney at bond hearing and can come back to Magistrate office if they decide they want attorney after bond hearing.	Magistrate Court conducts screening.	If come into office, must go to CoC to pay \$40	None by Magistrate, unsure of if CoC conducts any type of verification.	SCJD Form	Applicant	11
Saluda	Juveniles/DSS	Magistrate office	N/A	If person goes to CoC and fills out application - pay \$40	None	SCJD Form	Parents	11
Saluda	Magistrate's	Magistrate Court conducts screening. Defendant offered an attorney at bond hearing and can come back to Magistrate office if they decide they want attorney after bond hearing.	Magistrate Court conducts screening.	If come into office, must go to CoC to pay \$40	None by Magistrate, unsure of if CoC conducts any type of verification.	SCJD Form	Applicant	11
Spartanburg	General Sessions (GS)	Public Defender screens	Public Defender	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	7
Spartanburg	Juveniles/DSS	Public Defender	N/A	\$40 fee unless court waives	None	SCJD Form	Parents	7
Spartanburg	Magistrate's	Public Defender	Public Defender	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	7

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Sumter	General Sessions (GS)	Applications distributed at bond hearing. If released on bond and wants a PD, they must take application to CoC who then forwards it to PD for screening.	If want a PD, turn in application to jail who in turn forwards it to PD office for screening.	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	3
Sumter	Juveniles/DSS	Take application and fee to Clerk of Court who then forwards it to PD for screening	N/A	\$40 fee unless court waives	None	SCJD Form	Parents	3
Sumter	Magistrate's	Take application and fee to Clerk of Court who then forwards it to PD for screening	Jail forwards applications to PD Office for screening	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	3
Union	General Sessions (GS)	In-jail, screened at jail. Out-of-jail, Clerk of Court screens.	Jail cases apply at the jail and do not pay \$40	\$40 - must pay unless judge waives or in jail	Financial Declaration Form	SCJD Form	Applicant Only	16
Union	Juveniles/DSS	In-jail, screened at jail. Out-of-jail, Clerk of Court screens. Apply in Family Court Division.	Jail cases apply at the jail and do not pay \$40	\$40 - must pay unless judge waives or in jail	Financial Declaration Form	SCJD Form	Parents	16
Union	Magistrate's	Magistrate's Court	Jail cases apply at the jail and do not pay \$40	\$40	Financial Declaration Form	SCJD Form	Applicant Only	16

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
Williamsburg	General Sessions (GS)	Applications distributed at bond hearing. If released on bond and wants a PD, they must take application to Clerk of Court who then forwards it to PD for screening.	If want a PD, turn in application to jail who in turn forwards it to PD office for screening.	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	3
Williamsburg	Juveniles/DSS	Take application and fee to Clerk of Court who then forwards it to PD for screening	N/A	\$40 fee unless court waives	None	SCJD Form	Parents	3
Williamsburg	Magistrate's	Take application and fee to Clerk of Court who then forwards it to PD for screening	Jail forwards applications to PD office for screening	\$40 fee unless court waives	None	SCJD Form	Applicant and Spouse if married	3

<u>County</u>	<u>Court</u>	<u>Where to Apply</u>	<u>Jail Applications</u>	<u>Fee</u>	<u>Proof of Income</u>	<u>Form Used</u>	<u>Whose Income / Assets Considered</u>	<u>Circuit</u>
York	General Sessions (GS)	In-jail, Bond Court screens. Out-of-jail (or in-jail after bond court), Clerk of Court screens.	First screened at Bond Court and Bond Court Judge makes determination if qualify. IF decline then, apply at Clerk of Court. If stay in jail, Clerk of Court will usually get updated application from jail.	\$40 paid if apply at Clerk of Court. Don't tack the \$40 on at end for those approved at jail.	None	SCJD Form	Applicant Only	16
York	Juveniles/DSS	Clerk of Court screens	N/A	\$40 paid if apply at CoC. Don't tack the \$40 on at end for those approved at jail.	None	SCJD Form	Parents	16
York	Magistrate's	In-jail, Bond Court. Judge screens in court if not approved through Bond Court.	Bond Court also handles most of theirs.	They don't charge unless judge says so	None	SCJD Form	Applicant, spouse and dependent info	16

Table Note:

CoC = Clerk of Court

NS = No sheet in the Public Defender Application Procedure information for this court in this county.

SB = Public Defender Application Procedure information sheet includes place for information responsive to this column, but it is blank.

PINI = Public Defender Application Procedure information was provided in paragraph form and information responsive to this column was not included.

DEATH PENALTY TRIAL DIVISION

Overview of the Death Penalty Trial Division

Death Penalty Trial Division is one of the agency's organizational units. This unit provides representation and resources for capital trials statewide.

Organizational Chart related to the Death Penalty Trial Division

Figure 8 includes an organizational chart, current as of March, 2018.

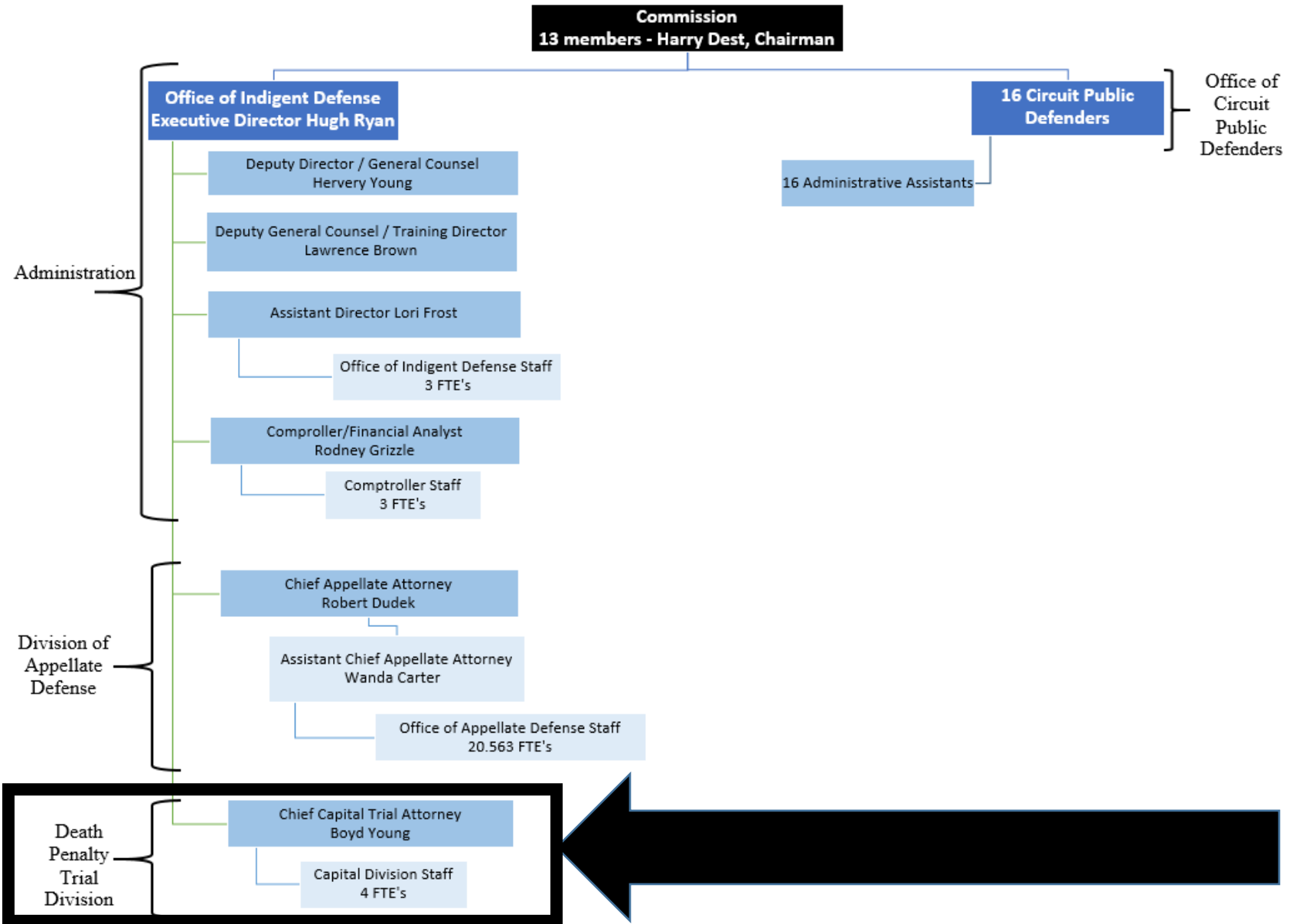


Figure 8. SCCID Organizational chart as of March 2018.⁷²

Products, Services, and Customers related to the Death Penalty Trial Division

In the Program Evaluation Report, the Committee asks an agency **to provide a list of its deliverables** (i.e., products and services) as well as additional information related to laws, customers, costs, and potential negatives impacts.

Table 7 includes an overview of the deliverables provided by the Death Penalty Trial Division and Table 8 includes additional information about the deliverables.

Table 7. List of the Death Penalty Trial Division's deliverables.

		Customers					Costs	
			Does the agency...					
Item #	Deliverable	Does law require, allow, or not address it?	Evaluate the outcome obtained by customers / individuals who receive the service or product?	Know the annual number of potential customers ?	Know the annual number of customers served ?	Evaluate customer satisfaction ?	Know the cost it incurs, per unit, to provide the product or service ?	Does the law allow the agency to charge for it to cover the agency's costs?
1A	Legal representation of indigent S.C. citizens in capital murder cases* *See Note A for examples of services provided as part of "legal representation."	Require	×	×	✓	×	✓ (See Appendix C for costs)	✓
1G	Legal representation of indigent S.C. citizens in post-conviction relief cases^	Require	×	×	✓	×	✓ (See Appendix C for costs)	✓

Table Note: An asterisk () indicates the Office of Circuit Public Defenders is also associated with the deliverable. An ^ indicates the Administration organizational unit is also associated with the deliverable.*

Note A: Services provided as part of "legal representation," include, but are not limited to:

- (1) work directly with clients to establish trusting, professional relationships which includes (a) maintaining regular contact through correspondence, phone calls, and in-person meetings; (b) visiting incarcerated clients at correctional facilities on a steady basis to discuss case strategies, fact developments, and trial preparation; (c) ensuring all communications with clients remain private; and (d) upholding ethical duties of loyalty and confidentiality to clients throughout all legal representation;*
- (2) representing the accused during criminal investigative proceedings, such as (a) attending police line-ups; (b) monitoring physical examinations, such as finger-nail scraping and blood, urine, and DNA testing; (c) being present at the time an accused person is arrested; and (d) arranging for the setting of bail and posting of bond, which allows their clients to be conditionally released pending trial.;*
- (3) researching the facts and laws involved in the criminal case, through pre-trial discovery, interviewing key witnesses, and conducting legal research to prepare for court appearances.*
- (4) assisting the accused during critical pre-trial phases, such as pretrial conferences with judges and prosecutors, and suppression motions.*
- (5) engaging in plea negotiations with the prosecutor, to obtain a reduced sentence or to have the charges dropped;*
- (6) actively defending the accused in court during trial by participating in jury selections, raising defenses that may be available and advantageous for the defendant (such as self-defense, defense of property, etc.); making opening statements, examining witnesses on the witness stand, presenting evidence to judges and juries, and making closing arguments at the conclusion of trials.*
- (7) attending post-trial sentencing hearings for clients who negotiate plea bargains, or are found guilty at trial. A public defender also may file an appeal if errors in court proceedings prejudiced his client's rights to a fair trial. Appeal work includes tasks such as ordering trial transcripts and filing appellate briefs and motions. A public defender may request oral arguments before appellate judges, which she must prepare for and attend if her request is granted.*

Table 8. Additional details about the Death Penalty Trial Division's deliverable.

Deliverable #1A	Legal representation of indigent S.C. citizens
-----------------	------------------------------------------------

Product/Service Component: Legal services in capital murder cases and criminal sexual conduct cases

Does law require, allow, or not address it? Require

Applicable law: S.C. Code Ann. 16-3-26, 16-3-655, and 17-3-90

Greatest potential harm to the public if deliverable is not provided:

- The indigent citizens of S.C. would be denied their constitutional rights under the sixth amendment, the right to counsel; and fourteenth amendment, the right to equal protection under the law.

1-3 recommendations to the General Assembly, other than \$, for how the General Assembly can help avoid the greatest potential harm

- Ensure only those citizens who are indigent, receive appointed counsel.
- Ensure indigency screening and appointment of counsel occurs as early as possible.

Other state agencies whose mission the deliverable may fit within: None

Does agency evaluate the outcome obtained by individuals who receive the service or product?	Does agency know the annual number of potential customers ?	Does agency know the annual number of customers served ?	Does the agency evaluate customer satisfaction ?	Does the agency know the cost it incurs, per unit, to provide the product or service ?	Does the law allow the agency to charge for it to cover the agency's costs ?
×	×	✓	×	✓ (See Appendix C for costs)	✓

Deliverable #1G**Legal representation of indigent S.C. citizens**

Product/Service Component: Legal services in capital murder post-conviction relief cases

Does law require, allow, or not address it? Require

Applicable law: S.C. Code Ann. 16-3-26, 16-3-655, and 17-3-90

Greatest potential harm to the public if deliverable is not provided:

- The indigent citizens of South Carolina would be denied their right to counsel under Sections, 17-27-60, 17-27-110 and 17-27-160 of the South Carolina Code of Laws.

1-3 recommendations to the General Assembly, other than \$, for how the General Assembly can help avoid the greatest potential harm

- Ensure only those citizens who are indigent, receive appointed counsel.
- Ensure indigency screening and appointment of counsel occurs as early as possible.

Other state agencies whose mission the deliverable may fit within: None

Does agency evaluate the outcome obtained by individuals who receive the service or product?	Does agency know the annual number of potential customers ?	Does agency know the annual number of customers served ?	Does the agency evaluate customer satisfaction ?	Does the agency know the cost it incurs, per unit, to provide the product or service ?	Does the law allow the agency to charge for it to cover the agency's costs ?
×	×	✓	×	✓ (See Appendix C for costs)	✓

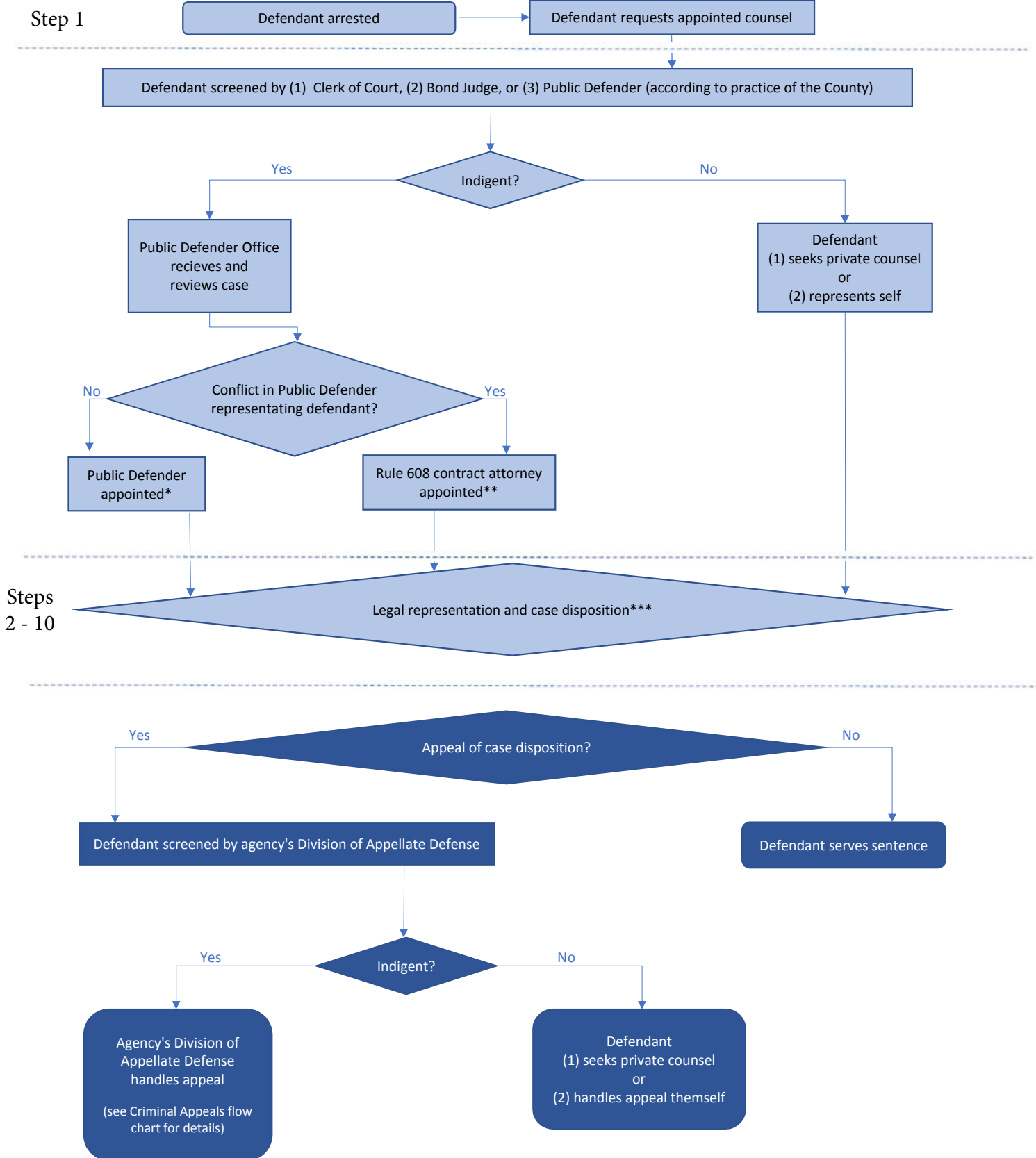
Case Flow Charts

Figure 9 provides a flow chart which summarizes steps in a death penalty case. Figure 10 provides a flow chart which summarizes steps in a post-conviction relief (PCR) case.

Adult Criminal Case, including death penalty - Circuit and Magistrate Court

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

Flow Chart as of June 2018



*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

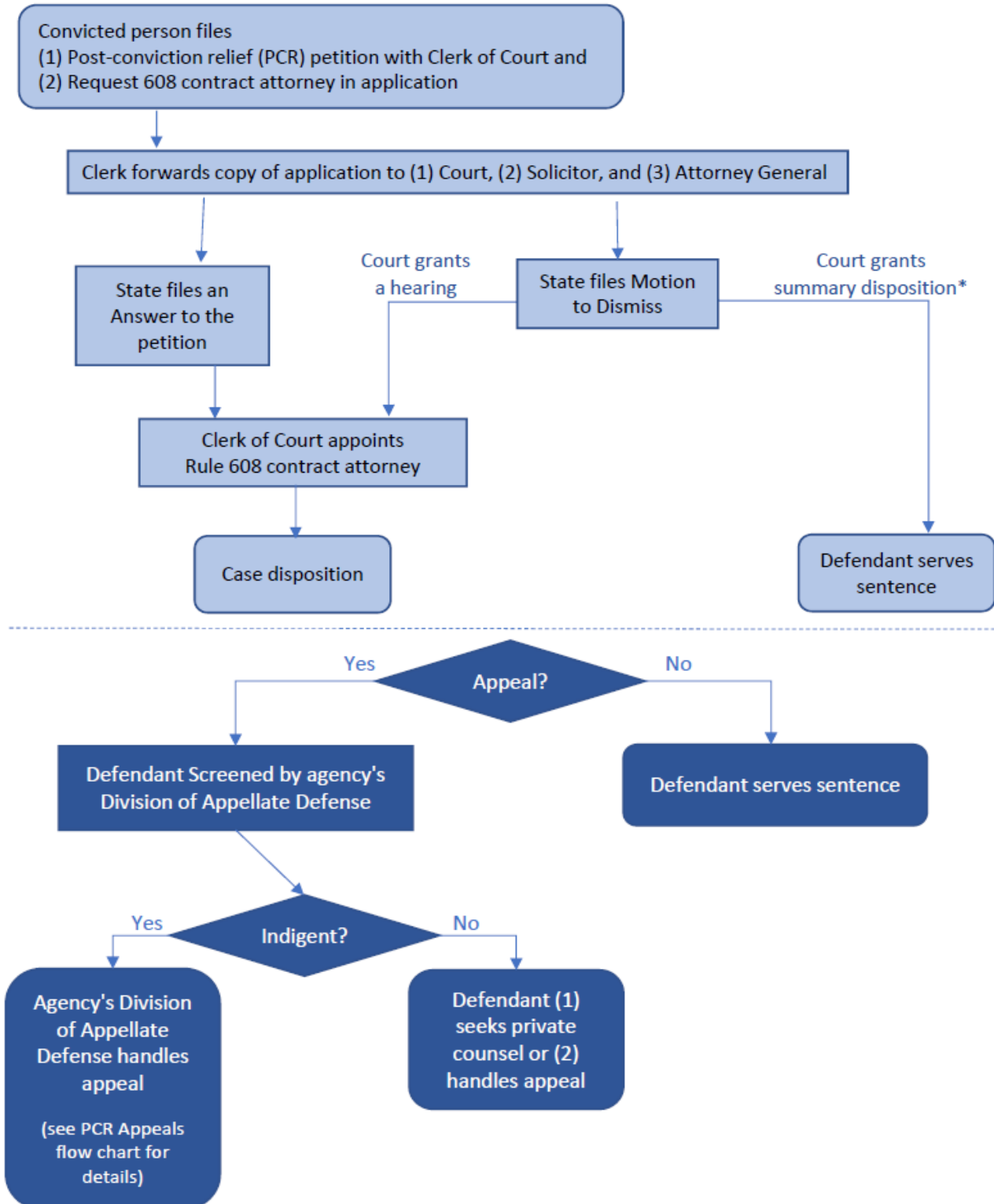
***Case disposition includes: (1) plea or nol proceed (not prosecuting) of some or all charges (i.e., warrants) before trial; (2) plea or nol proceed (not prosecuting) some or all charge (warrants) during trial; (3) judge or jury decision at end of trial.

Figure 4. Flow chart summarizing steps in an adult criminal case, including death penalty cases.

Criminal Post-Conviction Relief (PCR) Case

Flow Chart as of April 2018

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



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

Figure 10. Flow chart summarizing steps in a post-conviction relief case.⁷⁴

Employee Information related to the Death Penalty Trial Division

In the Program Evaluation Report, the Committee asks the agency to provide information about the employees in each of the agency's organizational units. The division has a Chief Capital Trial Attorney, Mr. Boyd Young, and four staff members.⁷⁵

Table 9 includes additional employee information related to the division.

Table 9. Death Penalty Trial Division: Employee Information.

<u>Details</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>
What is the turnover rate?	20%	0%	20%
Is employee satisfaction evaluated?	×	×	×
Is anonymous employee feedback allowed?	×	×	×
Do any positions require a certification (e.g., teaching, medical, accounting, etc.)	✓	✓	✓
Did the agency pay for, or provide classes/instruction needed to maintain all, some, or none of required certifications?	Some*	Some*	Some*

Table Note: An asterisk () indicates SCCID pays basic S.C. Bar dues for attorneys employed in this division, but does not pay for continuing legal education courses which are required for an attorney to maintain their license in S.C.*

Revenue and Funding Sources of the Death Penalty Trial Division

Revenue/Funding Received or Generated by the Death Penalty Trial Division

In the Program Evaluation Report, the Committee asks the agency to provide information about its revenue sources. The agency provides the information below.

The Death Penalty Trial division does not **receive** funds from any sources.⁷⁶

The division **generates** funds through the following sources⁷⁷:

- Public Defender Application Fee
- Court Fine 2^A
- Conviction Surcharge 2^B
- Investment Earnings 2^C

Table 10 includes the total amount generated by the division.

Table 10. Funding generated by the Death Penalty Trial Division.⁷⁸

Revenue Source	Recurring or one-time?	State, Federal, or Other?	Does revenue remain with the agency or go to General Fund?	Total revenue received in 2015-16	Total revenue estimated to receive in 2016-17
Public Defender Application Fee ^D	Recurring	Other	Agency	\$611,751	\$620,300
Court Fine 2 ^E	Recurring	Other	Agency	\$7,351,747	\$7,175,473
Conviction Surcharge 2 ^F	Recurring	Other	Agency	\$1,627,519	\$1,375,560
Investment Earnings 2 ^G	One-Time	Other	Agency	\$59,231	\$99,119
TOTAL				\$9,650,248	\$9,270,452

^A This revenue source includes: (1) Fee for filing complaints or petitions in civil actions described in 8-21-310(11)(a) (See, Section 14-1-204(A)(4)), which is legal aid collection that flows through to SC Legal Services; (2) Court Fine Assessment for those who are convicted of, plead guilty or nolo contendere to, or forfeits bond for a criminal offense in General Sessions, Magistrate, and Municipal Courts (see Sections 14-1-206(C)(4), 14-1-207(C)(6) and 14-1-208(C)(6) and Section 14-1-218(4)); (3) Application fee for public defender services in General Sessions, Magistrate, and Municipal Courts (See, Section 17-3-30(B)). Fines are collected by the Clerk of Courts Office and submitted to the State Treasurer's Office on a monthly basis for disbursement to our agency.

^B This revenue source includes \$500 probation fee collected by the Clerks of Court and remitted to SCCID. Fees are collected by the Clerk of Courts Office and submitted to SCCID on a monthly basis.

^C This revenue source includes interest earned from the collection of the following: (1) Sources #12 Public Defender Application Fee, (2) #13 Court Fine 2, and (3) Source #14 Conviction Surcharge 2. The Treasurer's Office remits the interest payments to SCCID on a monthly basis.

^D The following organizational units are also associated with this revenue source: (1) Administration and (2) Office of Circuit Public Defenders.

^E This revenue source is associated with all agency organizational units.

^F The following organizational units are also associated with this revenue source: (1) Administration and (2) Office of Circuit Public Defenders.

^G The following organizational units are also associated with this revenue source: (1) Administration and (2) Office of Circuit Public Defenders.

Revenue/Funding Utilized by the Death Penalty Trial Division

Table 11 includes information on revenue sources utilized by the Death Penalty Trial Division to achieve the agency's comprehensive strategic plan in fiscal years 2016-17 and 2017-18.

Table 11. Agency revenue sources utilized by the Death Penalty Trial Division to achieve the agency's comprehensive strategic plan in FY 2016-17 and 2017-18.⁷⁹

Revenue Sources utilized	Recurring or one-time?	State, Federal, or Other?	Organizational Units utilizing the funds	Spent to achieve plan in 2016-17	Percent of total spent by agency	Budgeted to achieve plan in 2017-18	Percent of total spent by agency
Public Defender Application Fee	Recurring	Other	Administration, Division of Appellate Defense, Office of Circuit Public Defenders, Death Penalty Trial Division	\$7,483,424 ^H	19.25% ^I	\$10,717,272	23.78% ^J
Court Fine 2 ^K	Recurring	Other					
Conviction Surcharge 2 ^L	Recurring	Other					
Investment Earnings 2 ^M	One-Time	Other					

^H These amounts are grouped together because that is how they appear in the S.C. Enterprise Information System.

^I Total spent by agency to achieve its plan in 2016-17 was \$37,560,944.

^J Total budget by agency to achieve its plan in 2017-18 was \$43,361,737.

^K Includes: (1) Fee for filing complaints or petitions in civil actions described in 8-21-310(11)(a) (See, Section 14-1-204(A)(4)), which is legal aid collection that flows through to SC Legal Services; (2) Court Fine Assessment for those who are convicted of, plead guilty or nolo contendere to, or forfeits bond for a criminal offense in General Sessions, Magistrate, and Municipal Courts (see Sections 14-1-206(C)(4), 14-1-207(C)(6) and 14-1-208(C)(6) and Section 14-1-218(4)); and (3) Application fee for public defender services in General Sessions, Magistrate, and Municipal Courts (See, Section 17-3-30(B)). Collected by the Clerk of Courts Office and submitted to the State Treasurer's Office on a monthly basis for disbursement to our agency, except for the Probation Fee which is submitted directly to SCCID.

^L \$500 Probation Fee collected by the Clerks of Courts Office and submitted to the State Treasurer's Office on a monthly basis for disbursement to SCCID.

^M Interest earned from the collection of Sources #12 Public Defender Application Fee, #13 Court Fine 2 based upon Section 14-1-204(A)(4), which is flow through to SC Legal Services; Court Fine Assessment based upon Section 14-1-218(4); Fees generated based upon Sections 14-1-206(C)(4), 14-1-207(C)(6) and 14-1-208(C)(6) and the application fee provided in Section 17-3-30(B) in General Sessions, Magistrate and Municipal Courts; and Source #14 Conviction Surcharge 2. The Treasurer's Office remits the interest payments to SCCID on a monthly basis.

Agency strategic plan and performance related to the Death Penalty Trial Division

In the Program Evaluation Report, the **Committee asks an agency how it allocates its human and financial resources to accomplish its goals** (i.e., broad expression of a long-term priority) **and objectives** (i.e., specific, measurable and achievable description of an effort the agency is implementing to achieve a goal) in the agency's strategic plan.⁸⁰ The Committee also asks the agency to list any funds the agency spent or transferred not toward the agency's comprehensive strategic plan.

Funds Spent/Transferred not toward the agency's comprehensive strategic plan

The Death Penalty Trial Division spends all of its funding toward the agency's comprehensive strategic plan.

Funds Spent toward the agency's comprehensive strategic plan

Table 12.1 includes an overview of how the agency allocated its resources to Strategy 1.3, the strategy with which the Death Penalty Trial Division is associated. Table 12.2 includes detailed information regarding the related performance measures.

Strategic Plan associated with the Death Penalty Division

Table 12.1. Part of agency's strategic plan related to the Death Penalty Trial Division, Strategy 1.3: Ensure quality representation in capital death cases.

GOAL 1 Ensure the effective legal representation of S.C. citizens eligible for indigent defense services

Strategy 1.3 Ensure quality representation in capital death cases

- Objective 1.3.1 Provide effective administration of the capital defense system for all indigent defendants in S.C. trial courts
 Objective 1.3.2 Require all Capital Trial Division attorneys be certified as S.C. Supreme Court Death Penalty Qualified

Responsible Employee(s): Mr. Boyd Young (responsible for less than three years)
Employee have input in budget? Yes, Mr. Young has input into the budget for Strategy 1.3

External Partner(s): Federal government, state government, and individuals

	# of FTE equivalents utilized	Amount Spent (including employee salaries/wages and benefits)	% of Total Available to Spend	Associated Performance Measures
2016-17*	7.25	\$ 848,615	1.92%	<ul style="list-style-type: none"> Continued training of the death penalty trial attorneys to ensure indigent clients receive professional and effective legal representation.
2017-18*	7.25	\$ 931,235	2.07%	

Table Note: An asterisks (*) denotes the data relates to Strategy 1.3 which includes the Death Penalty Trial Division and a portion of the agency's administration organizational unit.

Performance measures associated with the Death Penalty Division

The agency provided its performance measures in its Program Evaluation Report (PER). The agency was asked to categorize each measure based on the definitions below:⁸¹

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public and customer benefits from an agency's actions. Outcome measures are used to assess an agency's effectiveness in serving its key customers and in achieving its mission, goals and objectives. They are also used to direct resources to strategies with the greatest effect on the most valued outcomes. Outcome measures should be the first priority. Example - % of licensees with no violations.

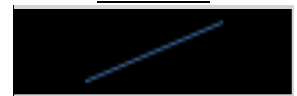
Efficiency Measure - A quantifiable indicator of productivity expressed in unit costs, units of time, or other ratio-based units. Efficiency measures are used to assess the cost-efficiency, productivity, and timeliness of agency operations. Efficiency measures measure the efficient use of available resources and should be the second priority. Example - cost per inspection

Output Measure - A quantifiable indicator of the number of goods or services an agency produces. Output measures are used to assess workload and the agency's efforts to address demands. Output measures measure workload and efforts and should be the third priority. Example - # of business license applications processed.

Input/Activity Measure - Resources that contribute to the production and delivery of a service. Inputs are "what we use to do the work." They measure the factors or requests received that explain performance (i.e. explanatory). These measures should be the last priority. Example - # of license applications received.

The agency indicates the performance measures associated with the portion of the strategic plan applicable to the Death Penalty Division is "Continued training of the death penalty trial attorneys to ensure indigent clients receive professional and effective legal representation." The agency does not specifically list this measure in its PER. However, the agency does include data on the number of continuing education hours provided to public defenders, which is seen in Table 12.2 below.

Table 12.2. Performance measure associated with continued education.

Performance Measure	Type of Measure		2013-14	2014-15	2015-16	2016-17	2017-18
Increase the number of Continuing Education Hours provided to PD's (Continuing Legal Education) Required by: Agency selected (not required by state or federal government)	Output	Target:	DNE	DNE	60	60	60
		Actual:	DNE	DNE	48.50	59	<u>Trend Line</u> 

*Table Note: "DNE" means did not exist.

DIVISION OF APPELLATE DEFENSE

Overview of the Division of Appellate Defense

Division of Appellate Defense is one of the agency's organizational units. This unit represents indigents in the majority of criminal appeals, including death penalty appeals before the S.C. Court of Appeals and the S.C. Supreme Court.

Organizational Chart related to the Division of Appellate Defense

Figure 11 includes an organizational chart, current as of March, 2018.

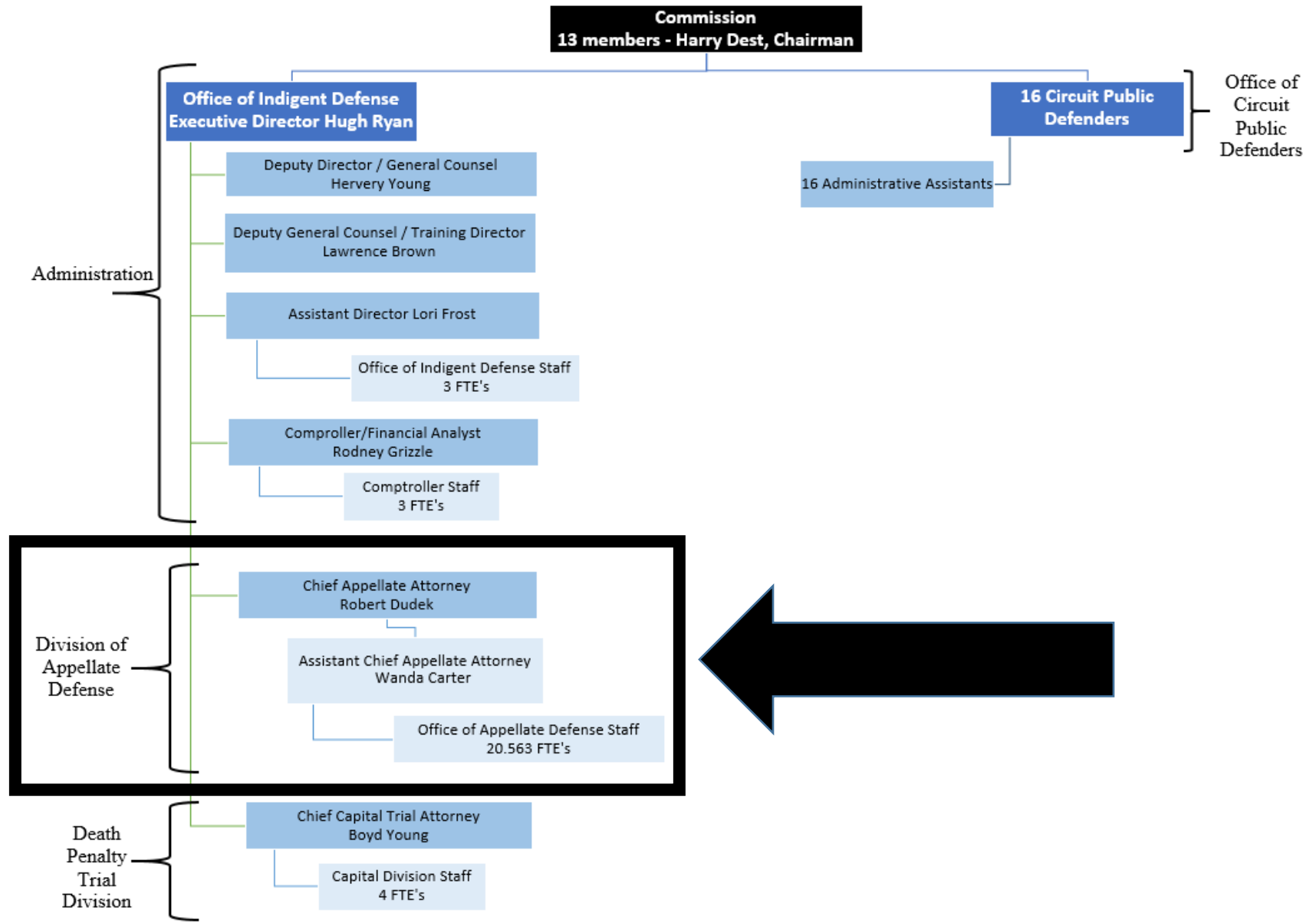


Figure 11. SCCID Organizational chart as of March 2018.⁸²

Products, Services, and Customers related to the Division of Appellate Defense

In the Program Evaluation Report, the Committee asks an agency **to provide a list of its deliverables** (i.e., products and services) as well as additional information related to laws, customers, costs, and potential negatives impacts.

Table 13 includes an overview of the deliverable provided by the Division of Appellate Defense and Table 14 includes additional information about the deliverable.

Table 13. List of the Division of Appellate Defense's deliverables.

Item #	Deliverable	Customers					Costs	
		Does law require, allow, or not address it?	Does the agency... Evaluate the outcome obtained by customers / individuals who receive the service or product?	Know the annual number of potential customers?	Know the annual number of customers served?	Evaluate customer satisfaction?	Know the cost it incurs, per unit, to provide the product or service?	Does the law allow the agency to charge for it to cover the agency's costs?
1D	Legal representation of indigent S.C. citizens in the process of appealing a conviction from a trial court	Require	×	×	✓	×	✓	×
1E	Provides for appointment of legal counsel in Sexually Violent Predator Act cases*	Require	×	×	✓	×	✓ (See Appendix C for costs)	×

Table Note: An asterisk () indicates the administration organizational unit is also associated with the deliverable.*

Table 14. Additional details about the Division of Appellate Defense's deliverable.

Deliverable #1D	Legal representation of indigent S.C. citizens
-----------------	------------------------------------------------

Product/Service Component: Legal services in the process of appealing a conviction from a trial court

Does law require, allow, or not address it? Require

Applicable law: S.C. Code Ann. 17-3-90 and 17-3-360

Greatest potential harm to the public if deliverable is not provided:

- The indigent citizens of S.C. would be denied their right to counsel under S.C. Code of Laws Section 17-3-360.

1-3 recommendations to the General Assembly, other than \$, for how the General Assembly can help avoid the greatest potential harm

- Ensure only those citizens who are indigent, receive appointed counsel.
- Ensure indigency screening and appointment of counsel occurs as early as possible.

Other state agencies whose mission the deliverable may fit within: None

Does agency evaluate the outcome obtained by individuals who receive the service or product?	Does agency know the annual number of potential customers ?	Does agency know the annual number of customers served ?	Does the agency evaluate customer satisfaction ?	Does the agency know the cost it incurs, per unit, to provide the product or service ?	Does the law allow the agency to charge for it to cover the agency's costs ?
×	×	✓	×	✓	×

Deliverable #1E**Legal representation of indigent S.C. citizens**

Product/Service Component: Legal services in Sexually Violent Predator Act cases.

Does law require, allow, or not address it? Require

Applicable law: S.C. Code Ann. 17-3-90; and S.C. Code Ann. 44-48-90, et. seq.

Greatest potential harm to the public if deliverable is not provided:

- The indigent citizens of S.C. would be denied their right to counsel under S.C. Code Ann. Section 44-48-90.

1-3 recommendations to the General Assembly, other than \$, for how the General Assembly can help avoid the greatest potential harm

- Ensure only those citizens who are indigent, receive appointed counsel.
- Ensure indigency screening and appointment of counsel occurs as early as possible.

Other state agencies whose mission the deliverable may fit within: None

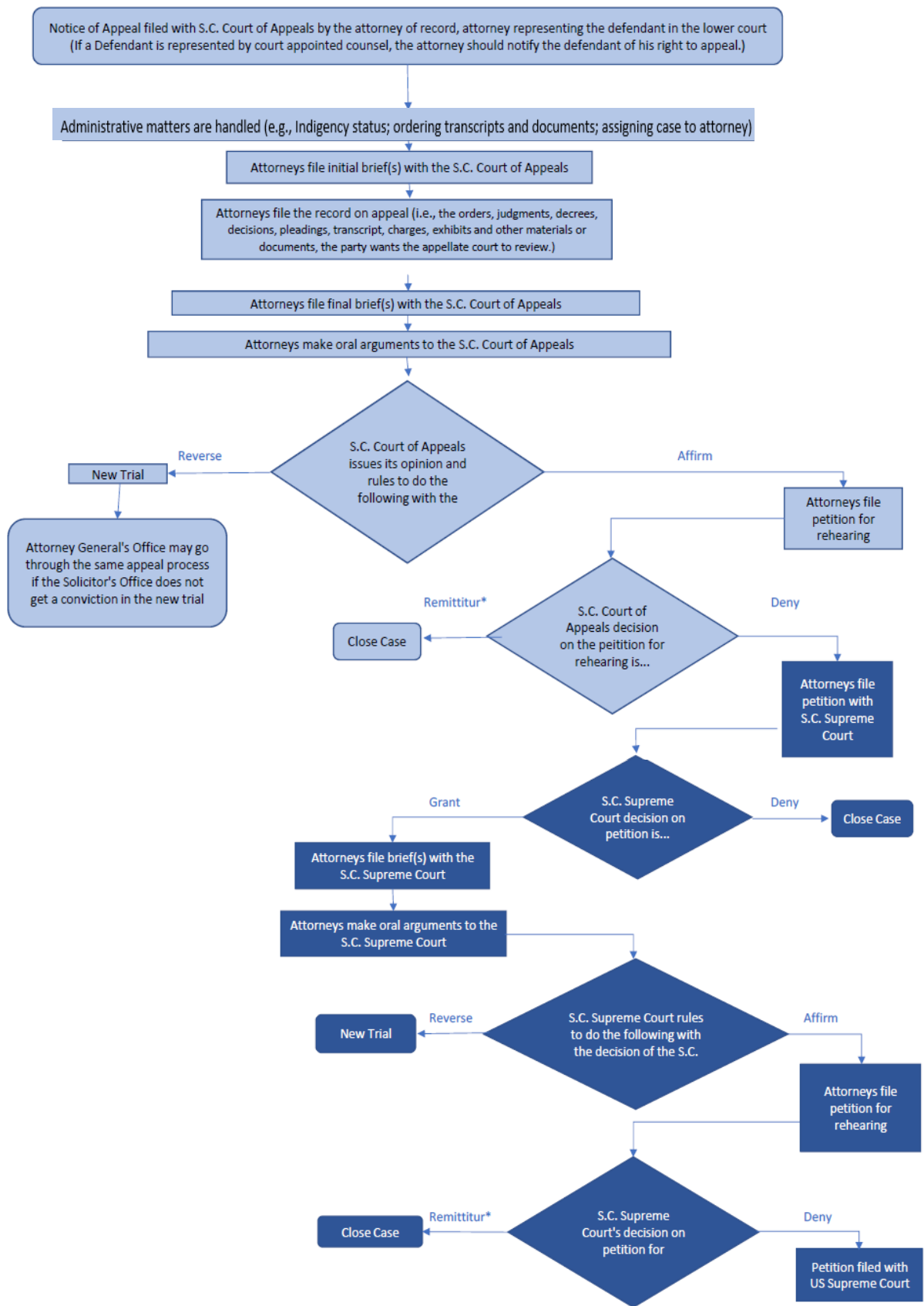
Does agency evaluate the outcome obtained by individuals who receive the service or product?	Does agency know the annual number of potential customers ?	Does agency know the annual number of customers served ?	Does the agency evaluate customer satisfaction ?	Does the agency know the cost it incurs, per unit, to provide the product or service ?	Does the law allow the agency to charge for it to cover the agency's costs ?
×	×	✓	×	✓ (See Appendix C for costs)	×

Case Flow Charts

Figure 12 provides a flow chart which summarizes steps in the appeals of criminal cases and civil sexually violent predator cases. Figure 13 provides a flow chart which summarizes steps in the appeals of criminal post-conviction relief (PCR) cases.

Appeals of Criminal cases and Civil Sexually Violent Predator (SVP) cases

Flow Chart as of April 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.

Figure 12. Flow chart summarizing steps in the appeals of criminal cases and civil sexually violent predator cases.⁸³

Appeals of Criminal Post-Conviction Relief (PCR) cases

Flow Chart as of April 2018

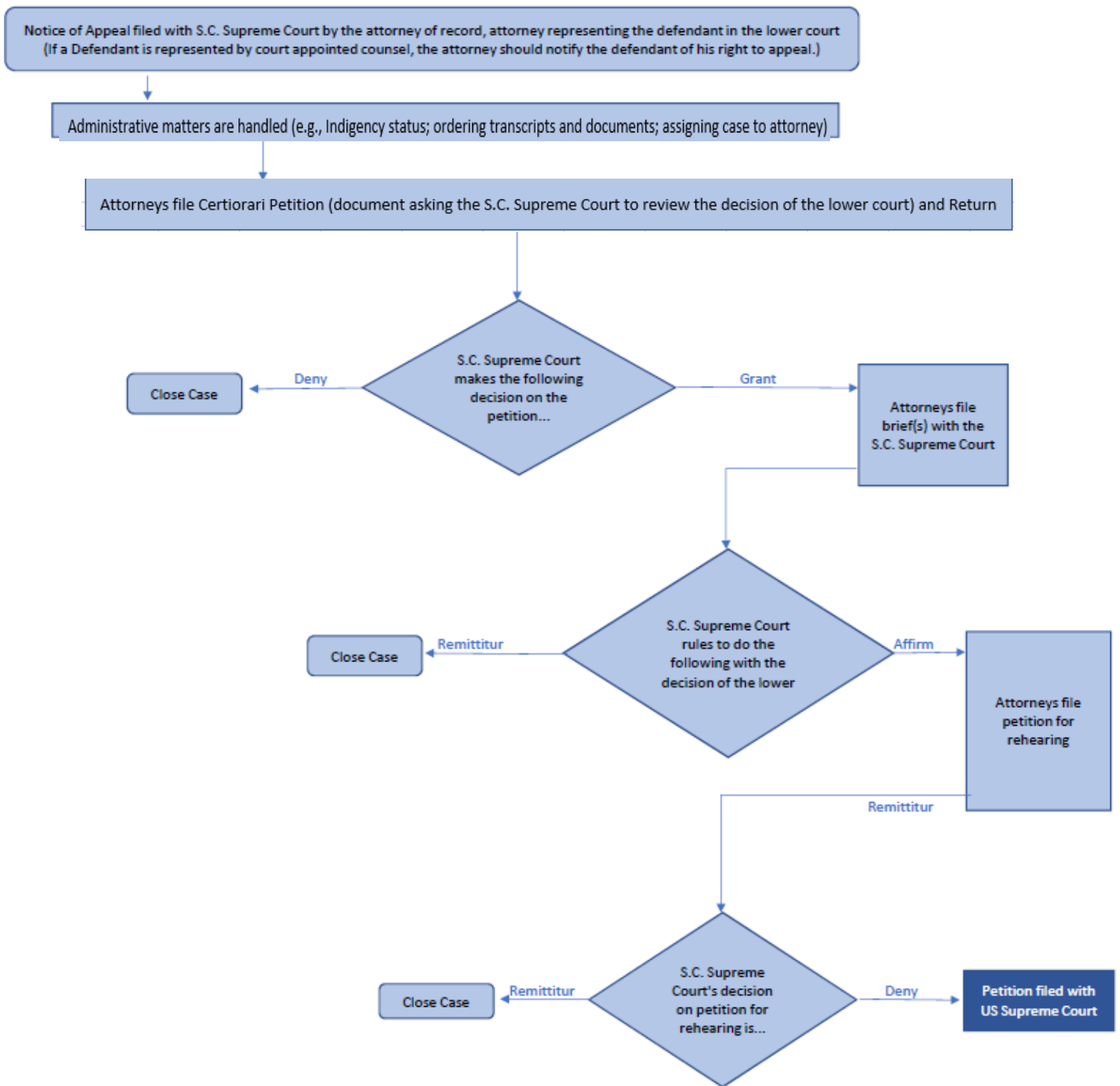


Figure 13. Flow chart summarizing steps in the appeals of criminal post-conviction relief (PCR) cases.⁸⁴

Employee Information related to the Division of Appellate Defense

In the Program Evaluation Report, the Committee asks the agency to provide information about the employees in each of the agency's organizational units. The division has a Chief Appellate Attorney, Assistant Chief Appellate Attorney, and twenty staff members.⁸⁵

Table 15 includes additional employee information related to the division.

Table 15. Division of Appellate Defense: Employee Information.

<u>Details</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>
What is the turnover rate?	18.60%	23.26%	27.91%
Is employee satisfaction evaluated?	×	×	×
Is anonymous employee feedback allowed?	×	×	×
Do any positions require a certification (e.g., teaching, medical, accounting, etc.)	✓	✓	✓
Did the agency pay for, or provide classes/instruction needed to maintain all, some, or none of required certifications?	Some*	Some*	Some*

Table Note: An asterisk () indicates SCCID pays basic S.C. Bar dues for attorneys employed in this division, but does not pay for continuing legal education courses which are required for an attorney to maintain their license in S.C.*

Revenue and Funding Sources of the Division of Appellate Defense

Revenue/Funding Received or Generated by the Division of Appellate Defense

In the Program Evaluation Report, the Committee asks the agency to provide information about its revenue sources. The agency provides the information below.

This Division of Appellate Defense **receives** funds through the following sources⁸⁶:

- General Fund Appropriations 1 - Recurring

The division **generates** funds through the following sources⁸⁷:

- Family and Circuit Court Filing Fee^N
- Conviction Surcharge 1^P
- Court Fine 2^O

Table 16 includes the total amount generated by the division.

Table 16. Funding generated by the Division of Appellate Defense.⁸⁸

Revenue Source	Recurring or one-time?	State, Federal, or Other?	Does revenue remain with the agency or go to General Fund?	Total revenue received in 2015-16	Total revenue estimated to receive in 2016-17
Family and Circuit Court Filing Fee	Recurring	Other	Agency	\$78,329	\$79,225
Conviction Surcharge 1	Recurring	Other	Agency	\$160,427	\$153,634
Court Fine 2 ^Q	Recurring	Other	Agency	\$7,351,747	\$7,175,473
TOTAL				\$7,590,503	\$7,408,332

^N This revenue source includes \$50 fee on civil action filings of which 1.81% goes to SCCID (See S.C. Code Ann. 14-1-204(B)(1)(e)). Fines are collected by the Clerk of Courts Office and submitted to the State Treasurer's Office on a monthly bases for disbursement to our agency.

^O This revenue source includes: (1) Fee for filing complaints or petitions in civil actions described in 8-21-310(11)(a) (See, Section 14-1-204(A)(4)), which is legal aid collection that flows through to SC Legal Services; (2) Court Fine Assessment for those who are convicted of, plead guilty or nolo contendere to, or forfeits bond for a criminal offense in General Sessions, Magistrate, and Municipal Courts (see Sections 14-1-206(C)(4), 14-1-207(C)(6) and 14-1-208(C)(6) and Section 14-1-218(4)); (3) Application fee for public defender services in General Sessions, Magistrate, and Municipal Courts (See, Section 17-3-30(B)). Fines are collected by the Clerk of Courts Office and submitted to the State Treasurer's Office on a monthly bases for disbursement to our agency.

^P This revenue source includes the \$25 surcharge on all fines, forfeitures, escheatments, or other monetary penalties imposed in General Sessions, Magistrates, and Municipal Courts, of which 1% goes to SCCID (See S.C. Code Ann. Section 14-1-212(B)(1)(h)). Fees are collected by the Clerk of Courts Office and submitted to the State Treasurer's Office on a monthly bases for disbursement to SCCID.

^Q This revenue source is associated with all agency organizational units.

Revenue/Funding Utilized by the Division of Appellate Defense

Table 17 includes information on revenue sources utilized by the Division of Appellate Defense to achieve the agency's comprehensive strategic plan in fiscal years 2016-17 and 2017-18.

Table 17. Agency revenue sources utilized by the Division of Appellate Defense to achieve the agency's comprehensive strategic plan in FY 2016-17 and 2017-18.⁸⁹

Revenue Sources utilized	Recurring or one-time?	State, Federal, or Other?	Organizational Units utilizing the funds	Spent to achieve plan in 2016-17	Percent of total spent	Budgeted to achieve plan in 2017-18	Percent of total spent
General Fund Appropriations 1	Recurring	State	Administration, Division of Appellate Defense, Office of Circuit Public Defenders, Death Penalty Trial Division	\$28,974,752	74.53%	\$30,845,217	68.45%
General Fund Appropriations 2	One-Time	State	Administration, Division of Appellate Defense, Office of Circuit Public Defenders, Death Penalty Trial Division	\$0	0.00%	\$100,000	0.22%
Capital Reserve Fund	One-Time	Other	Administration, Division of Appellate Defense, Office of Circuit Public Defenders, Death Penalty Trial Division	\$73,087	0.19%	\$64,819	0.14%
Family & Circuit Court Filing Fee	Recurring	Other	Administration, Division of Appellate Defense	\$259,684 ^R	0.67%	\$352,600	0.78%
Conviction Surcharge 1	Recurring	Other					
Public Defender Application Fee	Recurring	Other	Administration, Division of Appellate Defense, Office of Circuit Public Defenders, Death Penalty Trial Division	\$7,483,424 ^S	19.25%	\$10,717,272	23.78%
Court Fine 2	Recurring	Other					
Conviction Surcharge 2	Recurring	Other					
Investment Earnings 2	One-Time	Other					
			TOTAL	\$36,790,947	94.63%	\$42,079,908	93.38%

^R These amounts are grouped together because that is how they appear in the S.C. Enterprise Information System.

^S These amounts are grouped together because that is how they appear in the S.C. Enterprise Information System.

Agency strategic plan and performance related to the Division of Appellate Defense

In the Program Evaluation Report, the **Committee asks an agency how it allocates its human and financial resources to accomplish its goals** (i.e., broad expression of a long-term priority) **and objectives** (i.e., specific, measurable and achievable description of an effort the agency is implementing to achieve a goal) in the agency's strategic plan.⁹⁰ The Committee also asks the agency to list any funds the agency spent or transferred not toward the agency's comprehensive strategic plan.

Funds Spent/Transferred not toward the agency's comprehensive strategic plan

The Division of Appellate Defense spends all of the funding it generates toward the agency's comprehensive strategic plan.

Funds Spent toward the agency's comprehensive strategic plan

Table 18.1 includes an overview of how the agency allocated its resources to Strategy 1.2, the strategy with which the Division of Appellate Defense is associated.

Strategic Plan associated with the Division of Appellate Defense

Table 18.1. Part of agency's strategic plan related to the Division of Appellate Defense, Strategy 1.2: Maintain the appellate defense system.

GOAL 1 Ensure the effective legal representation of S.C. citizens eligible for indigent defense services

Strategy 1.2 Maintain the appellate defense system

Objective 1.2.1	Provide effective administration of the appellate defense system for all indigent defendants in S.C. trial courts
Objective 1.2.2	Ensure judicious submission of direct appeal or post-conviction relief briefs within the time limits established by the S.C. Supreme Court

Responsible Employee(s): Mr. Bob Dudek (responsible for more than three years)
Employee have input in budget? Yes, Mr. Dudek has input into the budget for Strategy 1.2

External Partner(s): Federal government, state government, and individuals

	# of FTE equivalents utilized	Amount Spent (including employee salaries/wages and benefits)	% of Total Available to Spend	Associated Performance Measures
2016-17	24.25	\$ 2,081,018	4.70%	<ul style="list-style-type: none"> SCCID's defender data system maintains a calendar application to ensure appeal submissions and documentation are done in a timely manner. Monitoring of appeal filings ensures indigent clients are receiving professional and effective legal representation.
2017-18	25.25	\$ 2,497,936	5.54%	

Performance measures associated with the Division of Appellate Defense

The agency provided its performance measures in its Program Evaluation Report (PER). The agency was asked to categorize each measure based on the definitions below:⁹¹

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public and customer benefits from an agency's actions. Outcome measures are used to assess an agency's effectiveness in serving its key customers and in achieving its mission, goals and objectives. They are also used to direct resources to strategies with the greatest effect on the most valued outcomes. Outcome measures should be the first priority. Example - % of licensees with no violations.

Efficiency Measure - A quantifiable indicator of productivity expressed in unit costs, units of time, or other ratio-based units. Efficiency measures are used to assess the cost-efficiency, productivity, and timeliness of agency operations. Efficiency measures measure the efficient use of available resources and should be the second priority. Example - cost per inspection

Output Measure - A quantifiable indicator of the number of goods or services an agency produces. Output measures are used to assess workload and the agency's efforts to address demands. Output measures measure workload and efforts and should be the third priority. Example - # of business license applications processed.

Input/Activity Measure - Resources that contribute to the production and delivery of a service. Inputs are "what we use to do the work." They measure the factors or requests received that explain performance (i.e. explanatory). These measures should be the last priority. Example - # of license applications received.

The agency does not track any specific performance measures related to the Division of Appellate Defense. However, the agency states its defender data system maintains a calendar application to ensure appeal submissions and documentation are done in a timely manner. The agency asserts the monitoring of appeal filings ensures indigent clients are receiving professional and effective legal representation.

Appendix A. Commissioner Resource Book 2018

The agency provided this information to the House Legislative Oversight Committee via email on August 8, 2018.



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



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

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

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, **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, **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, **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, **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

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, **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, **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, **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, **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

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

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 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. 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 or 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.**

*Investigator
Policy*

- h. Upon submission of bill investigator warrants that bill is accurate and all work has been actually performed and is in accordance with these guidelines.
 - i. Attendance at trials or other court hearings is authorized only for attending those portions of the trial when the investigators presence is necessary. Attendance for an entire trial or hearing will not be compensated, unless extraordinary circumstances exist and the attorney obtains prior approval from the trial court.
- II. SCCID may in its sole and absolute discretion remove from the list of approved investigators any investigator for failing to adhere to these guidelines, or for any conduct which the Commission finds inappropriate for investigative services performed on behalf of indigent clients in this State.

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 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 – 5th 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

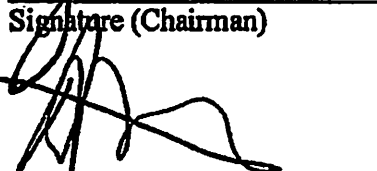
The 5th th Circuit's Circuit Public Defender Selection Panel, by a majority vote of its membership, hereby nominates Fielding Pringle to be the Circuit Public Defender for the 5 th Judicial Circuit of South Carolina. This Panel swears and affirms that the Selection Panel has at all times followed the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

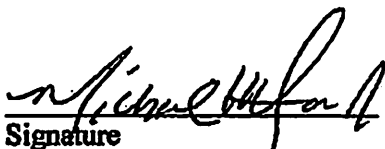
Bar Number



Signature (Secretary)

12983

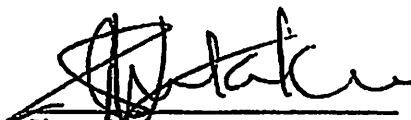
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SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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

Law Change Recommendation	
Law	17-3-20 Appointment of counsel for indigents charged with murder; compensation
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	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 § 17-281.1; 1974 (58) 2361.
Presented and Approved by Board/Commission	
Other agencies potentially impacted	None

Law Change Recommendation	
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>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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>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.</p>
Presented and Approved by Board/Commission	
Other agencies potentially impacted	None

Law Change Recommendation	
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>SECTION 17-3-40. Creation of claim against assets and estate of person for whom counsel is provided.</p> <p>(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.</p> <p>(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.</p> <p>(c) The court may, in its discretion, order any claim or judgment waived, modified or withdrawn.</p> <p>(d) The Judicial Department shall be responsible for administering this section, and all moneys collected hereunder shall be paid over to the Judicial Department.</p> <p>HISTORY: 1962 Code § 17-283; 1969 (56) 374; 1977 Act No. 219 Part II § 19; 1988 Act No. 356, § 2.</p>
Presented and Approved by Board/Commission	
Other agencies potentially impacted	None

Law Change Recommendation	
Law	17-3-50 Determination of fees for appointed counsel and public defenders; maximum amounts; authorization to exceed maximum; payment for certain services
Summary of Current Law	Provides hourly rates and caps for fees paid to private appointed counsel, investigators, experts, etc.
Agency's Rationale for Revision	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.
Agency's Law Recommendation Number from PER	4
Agency's Recommended Language	<p>SECTION 17-3-50. 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 Section 17-3-40 <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 provided were reasonably and necessarily incurred. 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.</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>
Presented and Approved by Board/Commission	
Other agencies potentially impacted	None

Law Change Recommendation	
Law	17-3-80 Appropriation for expenses of appointed private counsel and public defenders; restrictions and limitations
Summary of Current Law	Provided additional funding for indigent defense services for FY 1969-70.
Agency's Rationale for Revision	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.
Agency's Law Recommendation Number from PER	5
Agency's Recommended Language	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 § 17-287; 1969 (56) 374; 1977 Act No. 219 Pt II § 19; 1987 Act No. 142 § 1; 1993 Act No. 164, Part II, § 45G.
Presented and Approved by Board/Commission	
Other agencies potentially impacted	None

Law Change Recommendation	
Law	17-3-85 Fiscal year-end disposition of unexpended appropriations for payment of private appointed counsel for counties without public defender corporations
Summary of Current Law	Provides for handling of unexhausted funds appropriated for counties without public defender corporations to pay private counsel.
Agency's Rationale for Revision	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.
Agency's Law Recommendation Number from PER	6
Agency's Recommended Language	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 § 43.
Presented and Approved by Board/Commission	
Other agencies potentially impacted	None

Law Change Recommendation	
Law	17-3-90 Vouchers for payment for services by private appointed counsel and for reimbursement of expenses; approval and submission for payment
Summary of Current Law	Sets forth procedure for approval and submission of vouchers by appointed counsel and public defenders for payment by the Office of Indigent Defense.
Agency's Rationale for Revision	Eliminate Voucher procedures established by Orders of the Supreme Court, budget provisos, and SCCID policies have superseded the procedure set forth in this Section.
Agency's Law Recommendation Number from PER	7
Agency's Recommended Language	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 § 17-288; 1969 (56) 374; 1977 Act No. 219 Pt II § 19; 2007 Act No. 108, § 6, eff June 21, 2007.
Presented and Approved by Board/Commission	
Other agencies potentially impacted	None

Law Change Recommendation	
Law	17-3-100 Discretionary authority of judge to appoint counsel not limited; remuneration and reimbursement.
Summary of Current Law	Discretionary authority of judge to appoint counsel not limited; remuneration and reimbursement.
Agency's Rationale for Revision	Modify Refers to § 17-3-80 which the Agency recommends be deleted.
Agency's Law Recommendation Number from PER	8
Agency's Recommended Language	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 §§ 17-3-50 and 17-3-80 hereof, so long as funds appropriated herein are available therefor. HISTORY: 1962 Code § 17-289; 1969 (56) 374.
Presented and Approved by Board/Commission	
Other agencies potentially impacted	None

Law Change Recommendation	
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>SECTION 17-3-510. Circuit Public Defender Selection Panel; county representation; nomination of Circuit Public Defender; election by South Carolina Prosecution Coordination Commission <u>Commission on Indigent Defense</u>.</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 1st and most of these cases are serious felony charges (including murder).

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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 Herverly 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

Appendix B. Exit Interview Questionnaires

The agency provided this information to the House Legislative Oversight Committee via email on August 8, 2018.

Employee Exit Interview Questionnaire

Name	
Job Title	
Start Date	
End Date	
Division	
Supervisor	

1. What do you value about the Administrative Division?

2. What did you dislike about the Administrative Division?

3. How was your relationship with your supervisor?

4. How could your supervisor have helped you more on the job?

5. What are your views about management and leadership, in general, in the Administrative Division?

6. What did you like most about your position?

7. What did you dislike about your position?

8. What would you change about your position?

9. Were there any special problem areas?

10. What factors contributed to your decision to leave? What might have been done to prevent you from leaving?

11. Do you feel you had the resources and support necessary to accomplish your job? If not, what was missing?

12. Were your job responsibilities characterized correctly during the interview process?

Yes _____

No _____

13. Did you have clear goals and know what was expected of you in your position?

Yes _____

No _____

14. Did you receive adequate feedback about your performance?

Yes _____

No _____

15. Did you clearly understand and feel a part of the accomplishment of the Administrative Division?

Yes _____

No _____

16. Do you think management adequately recognized employee contributions? If not, how do you think recognition could be improved?

17. Did you feel you were kept up to date on new developments and policies?

Yes _____

No _____

18. Were there any policies you found difficult to understand? How can they be made clearer?

19. What improvements can you suggest to the Administrative Division or to your position (to make it easier, more challenging and more interesting)?

20. Do you have any concerns about the Administrative Division you'd like to share?

21. Are there any other unresolved issues or additional comments?

Return of:

Key: _____

Building Pass: _____

ID Card: _____

Employee Exit Interview Questionnaire

Name	
Job Title	
Start Date	
End Date	
Division	
Supervisor	

1. What do you value about the Appellate Division?

2. What did you dislike about the Appellate Division?

3. How was your relationship with your supervisor?

4. How could your supervisor have helped you more on the job?

5. What are your views about management and leadership, in general, in the Appellate Division?

6. What did you like most about your position?

7. What did you dislike about your position?

8. What would you change about your position?

9. Were there any special problem areas?

10. What factors contributed to your decision to leave? What might have been done to prevent you from leaving?

11. Do you feel you had the resources and support necessary to accomplish your job? If not, what was missing?

12. Were your job responsibilities characterized correctly during the interview process?

Yes _____

No _____

13. Did you have clear goals and know what was expected of you in your position?

Yes _____

No _____

14. Did you receive adequate feedback about your performance?

Yes _____

No _____

15. Did you clearly understand and feel a part of the accomplishment of the Appellate Division?

Yes _____

No _____

16. Do you think management adequately recognized employee contributions? If not, how do you think recognition could be improved?

17. Did you feel you were kept up to date on new developments and policies?

Yes _____

No _____

18. Were there any policies you found difficult to understand? How can they be made clearer?

19. What improvements can you suggest to the Appellate Division or to your position (to make it easier, more challenging and more interesting)?

20. Do you have any concerns about the Appellate Division you'd like to share?

21. Are there any other unresolved issues or additional comments?

Return of:

Key: _____

Building Pass: _____

ID Card: _____

Employee Exit Interview Questionnaire

Name	
Job Title	
Start Date	
End Date	
Department	
Supervisor	

1. What do you value about the Capital Trial Division?

2. What did you dislike about the Capital Trial Division?

3. How was your relationship with your supervisor?

4. How could your supervisor have helped you more on the job?

5. What are your views about management and leadership, in general, in the Capital Trial Division?

6. What did you like most about your position?

7. What did you dislike about your position?

8. What would you change about your position?

9. Were there any special problem areas?

10. What factors contributed to your decision to leave? What might have been done to prevent you from leaving?

11. Do you feel you had the resources and support necessary to accomplish your job? If not, what was missing?

12. Were your job responsibilities characterized correctly during the interview process?

Yes _____

No _____

13. Did you have clear goals and know what was expected of you in your position?

Yes _____

No _____

14. Did you receive adequate feedback about your performance?

Yes _____

No _____

15. Did you clearly understand and feel a part of the accomplishment of the Capital Trial Division?

Yes _____

No _____

16. Do you think management adequately recognized employee contributions? If not, how do you think recognition could be improved?

17. Did you feel you were kept up to date on new developments and policies?

Yes _____

No _____

18. Were there any policies you found difficult to understand? How can they be made clearer?

19. What improvements can you suggest to the Capital Trial Division or to your position (to make it easier, more challenging and more interesting)?

20. Do you have any concerns about the Capital Trial Division you'd like to share?

21. Are there any other unresolved issues or additional comments?

Return of:

Key: _____

Building Pass: _____

ID Card: _____

Appendix C. Costs per type of case

The agency provided this information to the House Legislative Oversight Committee in the agency's June 5, 2018 letter to the Subcommittee.

Average amount spent by the state, per indigent defendant			
<u>Type of Case</u>	<u>Attorney</u>	<u>Attorney Fees (Avg.)</u>	<u>Expenses (Avg.)*</u>
Criminal Case (All, except Murder)	<i>Contract Attorney**</i>	\$1,000 flat fee	\$45
	<i>Public Defender</i>	See Table Note 3	\$1
Non-Capital Murder	<i>Contract Attorney**</i>	\$1,000 flat fee Note: The attorney can petition for, and receive, up to \$3,500 in an extraordinary circumstance with S.C. Commission on Indigent Defense approval.	\$881
	<i>Public Defender</i>	See Table Note 3	\$1,125
Non-Capital Murder Post-Conviction Relief (PCR)	<i>Contract Attorney**</i>	\$900 flat fee	\$173
Capital Murder	<i>Attorney from Rule 608 Death Penalty List</i>	\$118,058 per case^ ^Cost if private attorney from Rule 608 death penalty list is utilized. Private attorney only utilized if the Capital Trial Division attorney and/or Circuit Public Defender have a conflict. Capital Trial Division attorneys and Circuit Public Defenders, who are salaried employees, handle the vast majority of Capital Murder cases in S.C. Capital Trial Division operational costs in FY 16-17 were \$570,753.	
	<i>SCCID Capital Trial Division Attorney and Public Defender</i>		
Capital Murder Post-Conviction Relief (PCR)	<i>Attorney from Rule 608 Death Penalty List</i>	\$163,791 per case Includes attorney fees and expenses	
Sexual Violent Predator (SVP)	<i>Contract Attorney**</i>	\$900 flat fee	\$910
Family Court	<i>Contract Attorney**</i>	\$900 flat fee	\$4

*Table Note 1: Examples of expenses include court filing fees, court reporters for depositions, copies of transcripts, etc.

**Table Note 2: If a Contract Attorney has a conflict or is otherwise unavailable, an Attorney will be appointed in accordance with the South Carolina Court Rule 608 appointment list, which is maintained by the South Carolina Bar.

Table Note 3: Public Defenders are on salary and handle all cases assigned which is not broken down by case type.

Appendix D. Indigency Screening Report



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*
Hervy B. O. Young, *Deputy Director and General Counsel*
Lori Frost, *Assistant Director*

TO: Honorable W. Brian White, Chairman of House Ways and Means Committee
Honorable F. Gregory Delleney Jr., Chairman of House Judiciary Committee
Honorable Hugh K. Leatherman Sr., Chairman of Senate Finance Committee
Honorable Luke A. Rankin, Chairman of Senate Judiciary Committee
Commissioners, SC Commission on Indigent Defense

FROM: Office of Indigent Defense (SCCID)

RE: Indigency Screening, Proviso 117.142

Date: November 15, 2017

BACKGROUND

SCCID began to hear concerns from some members of the General Assembly, prior to the start of the 2017 Legislative Session, regarding whether defendants were being adequately screened to assess their financial status for appointed counsel. It was determined this issue should be studied and budget proviso 117.142 was adopted. It states:

117.142. (GP: Indigent Defense Screening Review) The Commission on Indigent Defense and the Judicial Department Court Administration Program shall consult with the Summary Court Judges' Association and Clerks of Court Association on issues regarding the screening of applicants for indigent defense representation. The Commission on Indigent Defense and Court Administration shall make recommendations to the Chairman of the House Ways and Means Committee, the Chairman of the House Judiciary Committee, the Chairman of the Senate Finance Committee, and the Chairman of the Senate Judiciary Committee no later than December 1, 2017 regarding: requirements for applicants to verify their financial status, supporting documentation that should be required of all applicants; who should conduct the screening, what resources are necessary to properly screen applicants and any other recommendations that will assist in ensuring only those applicants that are truly indigent qualify for the services of a public defender or other appointed counsel

ACTIONS TAKEN

In accordance with proviso 117.142, SCCID has commenced an extensive process of researching, meeting with, interviewing, etc. those involved in the screening process and judicial system as a whole. Among those with which meetings, teleconferences, etc. have been held include but are not limited to the following:

- Chief Justice Don Beatty
- Representative Mike Pitts
- Representative Murrell Smith
- Court Administration
- Clerks of Court/ Registrar of Deeds Advisory Committee
- Chairman of Summary Court Judges Association, Judge Phil Newsom
- 16 Circuit Public Defenders
- Judge Ava Bryant (Magistrate Berkeley County)
- Judge Nancy Devine (Magistrate Anderson County)
- Greenville County Office of Indigent Defense
- DSS General Counsel Tony Catone
- DSS Child Support Enforcement (regarding databases available to assess individual's financial status)
- The Clerk of Court or staff member from all 46 Clerk of Court offices
- A Magistrate or Magistrate Court personnel from all 46 counties
- Other state indigent defense systems

INITIAL FINDINGS

Our initial findings confirm data from our most recent Circuit Defender HR survey, that screening is currently being conducted by either the bond court judge (summary court), Clerk of Court or Public Defender Office. Based on the information we have received, the breakdown of what entity screens is as follows:

Clerk of Court Office:	21
Summary Court:	14
Public Defender Office:	10
(3 additional PD offices presume jail cases are indigent and the PD accepts the case)	

***Greenville County has their own screening office (Greenville Indigent Defense). This office also conducts the screening for Pickens County jail cases while the Clerk screens non-jail cases.

In several counties the summary court judge may do an initial screening but the clerk of court office may rescreen someone if there is still a question of indigency or they “reapply”. Also in accordance with Rule 602, SCACR, if “that officer” is unable to make a determination of whether the accused is indigent the determination shall be made by the court in which the matter is to be heard.

Rule 602 addresses many of the steps in the appointment of counsel (screening) process as follows:

RULE 602 DEFENSE OF INDIGENTS

Rules promulgated under the Defense of Indigents Act (Act No. 309) passed by the General Assembly and approved by the Governor on June 17, 1969, were adopted by this Court on January 1, 1970. By Order of this Court dated September 20, 1972, the Rules were amended and now read as

follows:

- (a)** Every person arrested for the commission of a crime within the jurisdiction of the Court of General Sessions, every juvenile to be brought before any court on any charge for which he may be imprisoned, and every person charged with the violation of a probationary sentence shall be taken as soon as practicable before the Clerk of the Court of General Sessions in the county where the charges are preferred, or such other officer or officers as may be designated by the resident judge of the circuit, for the purpose of securing to the accused the right to counsel.

In cases involving criminal charges within the jurisdiction of magistrates' courts, municipal courts, or other courts with like jurisdiction, if a prison sentence is likely to be imposed following any conviction, the presiding judge of the court in which the matter is to be determined shall inform the accused as provided in Rule 2 when the case is called for disposition. The procedures concerning juveniles, as provided in Rule 1 and Rule 2 hereof, shall continue to be followed.

- (b)** The officer before whom the arrested person is taken shall:

- (1)** Inform the accused of the charges against him and of the nature of the charges.
- (2)** Advise the accused of his right to counsel and of his right to the appointment of counsel by the court, if the accused is financially unable to employ counsel.
- (3)** If the accused represents that he is financially unable to employ counsel, take his application for the appointment of counsel or for the services of the Public Defender where the latter is available in the county.

Upon examination of a completed Affidavit of Indigency (Form II), the officer designated to make a determination of indigency shall determine if the accused is indigent. If that officer is unable to make this determination, the final determination whether the accused is indigent shall be made by a judge of the court in which the matter is to be heard.

For purposes of this rule, a person is indigent if that person is financially unable to employ counsel. In making a determination whether a person is indigent, all factors concerning the person's financial condition should be considered including income, debts, assets and family situation. A presumption that the person is indigent shall be created if the person's net family income is less than or equal to the Poverty Guidelines established and revised annually by the United States Department of Health and Human Services and published in the Federal Register. Net income shall mean gross income minus deductions required by law.

- (b)** If application for counsel is approved for the accused, the Clerk of Court or other officer shall immediately notify the Office of Public Defender,

if one exists in the county, and the Public Defender shall immediately thereafter enter upon the representation of the accused. If there is no Public Defender for the county, then the Clerk of Court or other officer shall immediately notify the court, or such person as the resident judge may designate, of the request for counsel and appointment of counsel shall be made immediately with prompt notification thereof to the accused and counsel so appointed.

The initial designation of the Public Defender of appointment of counsel to represent an accused shall be subject to review by the court if it subsequently appears that the accused is in fact financially able to employ counsel, has obtained counsel of his own, or for other good cause shown.

CURRENT SCREENING ISSUES

In almost all circumstances the only requirement for screening is for the defendant to fill out the Affidavit of Indigency form (PD application) without any requirement for supporting documentation. Nearly all of the screening entities assert they check the information provided against the poverty guidelines, referenced in Rule 602. All screening entities have stated it would require additional personnel to conduct an in-depth screening such as a search of property records, financial databases, etc. to verify the information provided by the applicant.

While some Public Defender Offices currently screen there are legitimate concerns about such an arrangement. To ensure the legitimacy of the screening process, it is essential that screeners be free of any conflict of interest or other potential ethical pitfalls. The screening process should not overly empower the solicitor nor cast doubt on the public defender's loyalty to the client or on the presiding judge's impartiality.

Public Defender offices also report it is not uncommon for a defendant to be screened and found ineligible for appointed counsel but then appear before the court and have an attorney appointed. Several circuit judges have acknowledged this does sometimes occur because with the PDs in the courtroom a case can often be quickly disposed of by appointing a public defender.

WHAT IS THE SCOPE OF THE ISSUE?

To state it as concisely, we do not know. There has been no statistics recorded that provides a breakdown of the number of applicants accepted or rejected. Information needs to be collected to analyze the scope of the issue. But first, as we will address later in this memo, there needs to be adequate data available for the screener to make an accurate determination of indigency. It should then be mandated that the screening entity maintain detailed records regarding the number of applications accepted or rejected. This data will allow a proper cost benefit analysis to be conducted as to the scope of this issue and the resources that might be necessary.

POSSIBLE SOLUTIONS

1. The “Greenville Model”

Who Conducts the Screening:

Greenville has its own screening entity called the Office of Indigent Defense. The office is funded by Greenville County and has 3 employees. These independent screeners screen jail cases and those that have already posted bond to determine if defendants qualify for appointed counsel.

Under this option, trained, independent screeners would be set up in each County or Circuit to conduct all screening for indigency.

Process/Requirements for Applicants:

Each person wanting to apply for appointed counsel is provided with a list of documentation that is required to submit an application. Documentation includes, but is not limited to, pay stubs, statements from employer, proof of income for others within the household that are dependents of the defendant, proof of residence and household bills, proof of child support obligations, and proof of real estate ownership.

These screeners meet with each defendant and “pre-screens” them to determine if they are likely to qualify before they complete the application and have to pay the required \$40 fee. If it is likely the person will qualify, the screener will go through the application and supporting documentation with the applicant. A qualified applicant will be assigned to the Public Defender office or conflict counsel. If the person does not pre-qualify, they are not allowed to apply and pay the \$40 fee. However, an applicant that does not qualify, may request the decision to be reviewed by the court.

Necessary Resources:

Greenville County funds this Office of Indigent Defense at around \$200,000 per year for the 3 employees. SCCID estimates a Greenville Model across the State would cost at a minimum approximately \$2.6 million. This is based on 37 screeners at a cost of \$35,000 salary and \$35,000 fringe. This does not include an overhead cost such as office space, equipment, supplies, etc. (Number of screeners in a circuit would be based on population, caseloads, etc.). There is also the issue of what entity would fund this. In Greenville, the screeners are county employees and as noted, it is funded by Greenville County. As would be expected, county officials we have spoken with raised concerns about any requirement to provide such funding.

2. Database Verified Screening

Who will Conduct Screening:

It is our position that best practices indicates that screening should take place as soon as possible after arrest thus during bond court. It is our understanding from the SC Supreme Court, that these judges (courts) should have the technology infrastructure in place to log into a verification database to conduct screening. While we understand these courts may have concerns this will slow

down the bond court process, this is the crucial time to address the issue of the appointment of counsel and would make for a more efficient process as the case moves forward.

Process/Requirements for Applicants:

Under this option, the bond court will have access to The Work Number database to verify information provided by the application to determine indigency. The Work Number is currently being used by the SC Department of Social Services. The database includes employment verification, amount and date of last pay check, amount and date of public assistance benefit or disability benefits. Not being in the database can be verification when someone reports being unemployed.

Necessary Resources:

a. The Work Number Database Access

Whoever is assigned the screening role, one thing is clear, they need the ability to actually conduct a proper screening. The Department of Social Services Child Support Enforcement Division has numerous databases to conduct a financial assessment. They have access to many federal databases such as Social Security and the IRS. They can also request information from the SC Department of Employment and Workforce and SC Department of Revenue. However, they also have a private service called the Work Number (run by Equifax) which provides the most complete picture with one search.

DSS reports they made payments to the Work Number last year of a little over \$1 million dollars for database searches. DSS had a contract for \$800,000 for 180,000 searches and then at a cost of \$4.90 per search above the 180,000 threshold, which they exceeded, thus the bill of over \$1 million.

SCCID estimates the number of searches required would be at a minimum approximately 133,000. This is based on data that the PD office open on average 52,000 cases per year (this only includes general session's cases as to avoid a double count with magistrate court numbers compiled by Court Administration) and that Magistrate Courts handle approximately 70,000 non-traffic related cases per year. This also includes screening for those that do not qualify for a PD which we will estimate as 20% of the applicants.

In discussions with the Work Number representatives they report that in only about 40% of cases does the search actually result in a "hit" in their system, as many people applying for the PD are paid in cash, have a limited financial history, etc. The Work Number only charges for searches where there is actual data (a hit) on an applicant. Thus the estimated price for an annual contract would be in the range of \$350,000 to \$430,000.

For this analysis, we have not included municipal court cases, as PD offices only handle municipal cases where they have a contract with the municipality to handle cases in those courts. This was approximately 3,000 cases in the most recent FY out of over 100,000 non-traffic related cases.

b. Pilot Program

The Agency believes the best course of action is to establish a pilot program to test this

screening process.

The pilot program would include a mixture of large, medium and small counties as well as a mixture of counties where the screening is conducted by the bond court judge, the clerk of court or the Public Defender. After discussions with the Circuit Defenders, the suggestion is to include the following counties in this pilot program:

Allendale	Chester	Clarendon	Marlboro	Laurens
Florence	Aiken	Spartanburg	Horry	Richland

SCCID estimates the cost of using The Work Number database for these counties at between \$99,000 and \$120,000. This is based on an estimated 26,433 cases with a hit rate of 40%.

3. **Enhanced Status Quo** (with mandated documentation required, modified affidavit)

If funding is not available for options 1 or 2, then a potential option would be to mandate certain documentation be provided to verify the information in the application. To put some “teeth” in this requirements would likely require an Administrative Order of the Supreme Court or statute. One recommendation would be to amend or revise the Affidavit of Indigency form to require information similar to a financial declaration required in Family Court. Documents required could include the applicant’s most recent federal and state income tax returns, W-2 forms and schedule C, if self-employed and Copies of current pay stubs or in the absence of such documentation, a written statement of income and deductions from an employer. In Tennessee, they also have a requirement that an applicant show proof they have spoken with at least two private attorneys prior to seeking appointed counsel.

Incarcerated applicants would be presumed indigent. Even upon release on bond, applicants may be prohibited from returning to places any records are stored. Unless the applicant is lawfully prohibited from accessing their records, they should be required to provide proof to the appropriate authority within a specified time from release.

SUMMARY

Indigent screening is an issue that requires constant review. The options herein present a range of possible solutions seeking to ensure that only those applicants that are truly indigent qualify for the services of a public defender or other appointed counsel.

COMMITTEE CONTACT INFORMATION



- Website - <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>
- Phone Number - 803-212-6810
- Email - HCommLegOv@schouse.gov
- Location - Blatt Building, Room 228

1 Visual Summary Figure 1 is compiled from information in the Commission on Indigent Defense study materials available online under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and then under "Indigent Defense, Commission on"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/IndigentDefense.php> (accessed April 17, 2018).

² Greenville Online, <https://www.greenvilleonline.com/story/news/crime/2015/03/09/citizens-group-court-backlog-making-streets-unsafe/24524199/> (Accessed April 19, 2018); August 9, 2018 email from Rodney Grizzle, SCCID to Charles Appleby, staff for House Legislative Oversight Committee.

3 S.C. Code Ann. 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.

4 S.C. Code Ann. 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.

5 S.C. Code Ann. 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.

6 S.C. Code Ann. 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.

7 S.C. Code Ann. 17-3-310.

8 S.C. Code Ann. 17-3-340.

9 S.C. Code Ann. 17-3-340.

10 S.C. Code Ann. 17-3-340.

11 S.C. Code Ann. 17-3-340.

12 S.C. Code Ann. 17-3-310.

13 S.C. Code Ann. 17-3-340.

14 S.C. Code Ann. 17-3-320.

15 S.C. Code Ann. 17-3-320.

16 S.C. Code Ann. 17-3-320.

17 S.C. Code Ann. 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.

18 S.C. Code Ann. 17-3-320.

19 S.C. Code Ann. 17-3-320.

20 S.C. Code Ann. 17-3-320.

21 S.C. Code Ann. 17-3-330. 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

22 S.C. Code Ann. 17-3-320.

23 S.C. Code Ann. 17-3-330.

24 S.C. Code Ann. 17-3-340.

25 S.C. Code Ann. 17-3-310.

26 S.C. Code Ann. 17-3-310.

27 S.C. Code Ann. 17-3-340.

28 S.C. Code Ann. 17-3-310.

29 S.C. Code Ann. 17-3-310.

30 S.C. Code Ann. 17-3-320.
31 S.C. Code Ann. 17-3-320.
32 S.C. Code Ann. 17-3-340.
33 S.C. Code Ann. 17-3-340.
34 S.C. Code Ann. 17-3-340.
35 S.C. Code Ann. 17-3-320.
36 S.C. Code Ann. 17-3-340.
37 S.C. Code Ann. 17-3-340.
38 S.C. Code Ann. 17-3-330. See also, S.C. Code Ann. 17-3-360.
39 S.C. Code Ann. 17-3-330(B)-(C)
40 S.C. Code Ann. 17-3-310.
41 S.C. Code Ann. 17-3-310.
42 S.C. Code Ann. 17-3-340.
43 S.C. Code Ann. 17-3-320.
44 S.C. Code Ann. 17-3-330.
45 Phone conversation between Mr. Hugh Ryan, SCCID, Mr. Rodney Grizzle, SCCID, and Mr. Charles Appleby, House Legislative Oversight Committee staff, on April 20, 2018.
46 Phone conversation between Mr. Hugh Ryan, SCCID, Mr. Rodney Grizzle, SCCID, and Mr. Charles Appleby, House Legislative Oversight Committee staff, on April 20, 2018. See also, Proviso 117.110, General Appropriations Bill for Fiscal Year 2016-17 and Proviso 117.109, General Appropriations Bill for Fiscal Year 2017-18 (The Prosecution Coordination Commission and the Commission on Indigent Defense shall provide detailed expenditure reports and associated revenue streams for each individual circuit, revenue streams shall include, but not be limited to, state funds, local funds, Federal funds, and also nongovernmental sources of funds, by no later than September first, on the prior fiscal year, to the appropriate commission. The commissions shall then provide the Chairman of the House Ways and Means Committee and Chairman of the Senate Finance Committee with a combined report by September fifteenth of the current fiscal year.)
47 S.C. Code Ann. 17-3-330.
48 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 1.
49 The party who appeals the judgement of the lower court (which would either be a conviction or an adjudication of guilt or, if the State is appealing, an adverse ruling by trial court – the prosecution has a very limited right to appeal) is referred to as the "Appellant," and the other party is referred to as the "Respondent."
50 While the Attorney General handles the overwhelming majority of criminal appeals in the Supreme Court and Court of Appeals for the State, municipal and county attorneys often handle their appeals and the Solicitors will occasionally handle an appeal. In Circuit Court, municipal and county attorneys handle the appeals of the cases they prosecute and the Solicitors handle the appeals of the cases they, as well some of those law enforcement, prosecute.
51 The Attorney General's Office prosecutes its Statewide Grand Jury cases in the General Sessions Court; it also occasionally prosecutes cases conflicted out of a Solicitor's Office (although those cases most usually are conflicted out to a different Solicitor's Office).
52 While neither criminal nor quasi-criminal in nature, indigent defendants in child abuse/neglect removal and termination of parental rights cases instigated by the South Carolina Department of Social Services (SCDSS) in the Family Court are provided an attorney by the State. The money to pay for the attorneys in these civil cases is appropriated by the General Assembly to SCCID, which does not provide direct representation, but pays contract attorneys to represent these individuals. The State in these cases is represented by SCDSS attorneys.
53 Mr. Rodney Grizzle, SCCID email to Mr. Charles Appleby, House Legislative Oversight Committee, in April 2018.
⁵⁴ 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.
⁵⁵ 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).
⁵⁶ 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.

57 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).

58 Mr. Rodney Grizzle, SCCID email to Mr. Charles Appleby, House Legislative Oversight Committee, in April 2018.

59 Mr. Rodney Grizzle, SCCID email to Mr. Charles Appleby, House Legislative Oversight Committee, in April 2018.

60 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 5.

61 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).

62 Mr. Rodney Grizzle, SCCID email to Mr. Charles Appleby, House Legislative Oversight Committee, in April 2018.

63 S.C. Code Ann. Section 17-3-45(B).

64 S.C. Code Ann. Section 17-3-45(B).

65 SCCID Memo re: Indigency Screening, Proviso 117.142 (November 15, 2017), page 4.

66 August 8, 2018 email from Mr. Rodney Grizzle, SCCID to Mr. Charles Appleby, staff for the House Legislative Oversight Committee.

67 August 8, 2018 email from Mr. Rodney Grizzle, SCCID to Mr. Charles Appleby, staff for the House Legislative Oversight Committee.

68 SCCID Memo re: Indigency Screening, Proviso 117.142 (November 15, 2017), page 2.

69 SCCID Memo re: Indigency Screening, Proviso 117.142 (November 15, 2017), page 2.

70 SCCID Memo re: Indigency Screening, Proviso 117.142 (November 15, 2017), page 4.

71 SCCID Memo re: Indigency Screening, Proviso 117.142 (November 15, 2017), page 4.

72 Agency PER.

73 Mr. Rodney Grizzle, SCCID email to Mr. Charles Appleby, House Legislative Oversight Committee, in April 2018.

74 Mr. Rodney Grizzle, SCCID email to Mr. Charles Appleby, House Legislative Oversight Committee, in April 2018.

75 Agency PER, Organizational Chart as of July 1, 2017.

76 Agency's PER, Comprehensive Strategic Finances Chart

77 Agency's PER, Comprehensive Strategic Finances Chart

78 Agency's PER, Comprehensive Strategic Finances Chart

79 Agency's PER, Comprehensive Strategic Plan Chart and Strategic Plan Summary Chart.

80 Department of Administration, Executive Budget Office, "2016-17 Accountability Report Technical Assistance Guide," under Agency Accountability Reports [http://www.admin.sc.gov/files/FY%202016-](http://www.admin.sc.gov/files/FY%202016-17%20Accountability%20Report%20Technical%20Assistance.pdf)

[17%20Accountability%20Report%20Technical%20Assistance.pdf](http://www.admin.sc.gov/files/FY%202016-17%20Accountability%20Report%20Technical%20Assistance.pdf) (accessed July 21, 2017). See also, Agency PER.

81 CMA Program Evaluation Report, pp. 32-34.

82 Agency PER.

83 Mr. Rodney Grizzle, SCCID email to Mr. Charles Appleby, House Legislative Oversight Committee, in April 2018.

84 Mr. Rodney Grizzle, SCCID email to Mr. Charles Appleby, House Legislative Oversight Committee, in April 2018.

85 Agency PER, Organizational Chart as of July 1, 2017.

86 Agency's PER, Comprehensive Strategic Finances Chart

87 Agency's PER, Comprehensive Strategic Finances Chart

88 Agency's PER, Comprehensive Strategic Finances Chart

89 Agency's PER, Comprehensive Strategic Plan Chart and Strategic Plan Summary Chart.

90 Department of Administration, Executive Budget Office, "2016-17 Accountability Report Technical Assistance Guide," under Agency Accountability Reports [http://www.admin.sc.gov/files/FY%202016-](http://www.admin.sc.gov/files/FY%202016-17%20Accountability%20Report%20Technical%20Assistance.pdf)

[17%20Accountability%20Report%20Technical%20Assistance.pdf](http://www.admin.sc.gov/files/FY%202016-17%20Accountability%20Report%20Technical%20Assistance.pdf) (accessed July 21, 2017). See also, Agency PER.

91 CMA Program Evaluation Report, pp. 32-34.