



# SOUTH CAROLINA JUDICIAL BRANCH



*Mission: To provide a fair and efficient forum for the just resolution of civil, family, and criminal matters.*

## Uniformity in Criminal Docket Management in South Carolina

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February 3, 2023

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## **1. Background**

South Carolina's court system is a unified judicial system, which means it is a system comprised of a central head that governs and controls the lower courts. Within the system are court officials who are responsible for adhering to the laws, rules, and orders of the judicial system. Circuit Court Judges are elected by members of the General Assembly. The Circuit Court is the state's court of general jurisdiction. It has a civil court, the Court of Common Pleas, and a criminal court, the Court of General Sessions. South Carolina clerks of court are popularly elected in each of the state's 46 counties. Duties of the clerks extend in both civil and criminal areas and include but are not limited to receiving criminal warrants and forwarding them to the solicitor; receiving bail; assembling trial lists; performing courtroom duties; receipt and disbursement of support payments paid through the clerk of court, issuance of Rules to Show Cause, handling jury-related matters; receiving fees, fines, and costs; and maintaining court records. A more exhaustive list of the general duties and powers of the clerk court is found in S.C. Code Ann. §§ [14-17-210 - 370](#).

Prior to 2012, management of the criminal docket was exclusively performed by the elected solicitor (commonly known as the prosecutor) for each judicial circuit. In November 2012, the Supreme Court of South Carolina issued an opinion ([State v. Langford](#)) finding S.C. Code Ann. § [1-7-330](#) unconstitutional under the separation of powers clause embodied in [Article I, Section 8](#) of the South Carolina Constitution. The Court further directed that going forward the criminal docket would be managed by the directives outlined in an [administrative order](#). This administrative order directed the solicitor to notify the clerk of court when a case was ready for disposition. Further, the clerk of court was directed to work with the presiding judge to set and

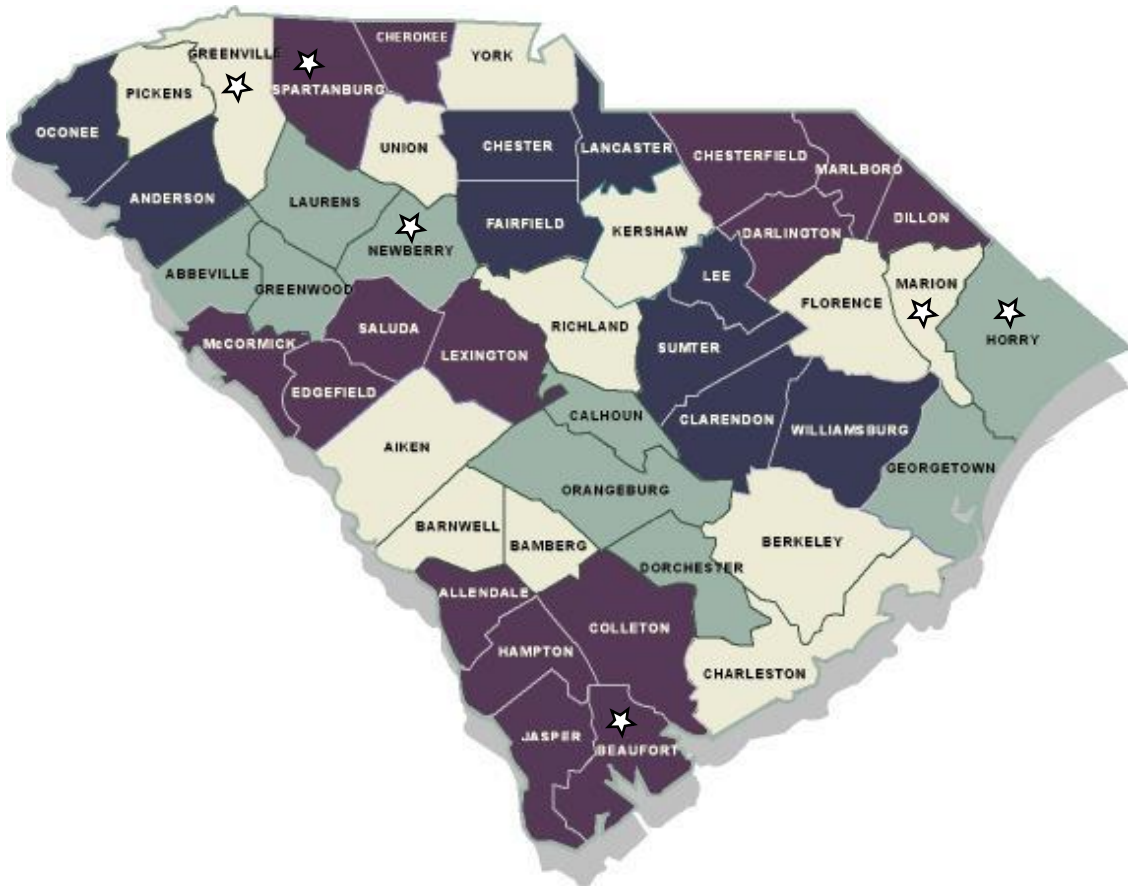
schedule the case on the docket. This was a large task and responsibility to be absorbed by the clerks of court. Some offices lacked the capacity and resources to hire new staff to implement this procedure, thereby resulting in some offices designating a staff person (employed by the county) to manage the criminal docket in addition to their normal duties. In December 2012, the Supreme Court issued a directive which held the prior order in abeyance to allow for a plan to be created to implement the changes necessary on the local level in light of the *Langford* decision.

The resources available to the clerks of court in rural versus urban areas are vastly different. Generally, the clerks of court in rural areas did not seek to control the docket because it was very burdensome on their limited number of staff members. Clerks of court in more urban areas with more available resources were better able to absorb the additional responsibility of the management of the criminal docket. Initially, some oversight was provided by the Supreme Court and Court Administration, however, that tapered off over the years.

In September 2020, Chief Justice Beatty issued a subsequent [order](#) directing all clerks of court to designate a clerk (a staff person within the clerk's office and employed by the county) to set the docket for criminal court knowing that some counties had not complied with the previous directive. Additionally, mitigation measures implemented during the COVID-19 pandemic created more and more of backlog of criminal cases. During the 2022 legislative session, the Chief Justice requested that the legislature increase the Judicial Branch's budget to include the hiring of 16 docket liaisons who would be *state employees* under the direct supervision of the judicial branch.

The essential job functions of the docket liaisons are described in detail in [Attachment A](#), but generally they are tasked with assisting the clerks of court, Chief Judges for Administrative

Purposes (CJAP), solicitors, and defense attorneys to create a uniform and efficient method of docket management. Initially, the Judicial Branch planned to hire all 16 docket liaisons (one for each circuit) but received direction to pause hiring after six liaisons were offered employment. The map below indicates the counties where each of the six docket liaisons are based.



## 2. Problem Statement

This project assesses uniformity in criminal docket management and how Circuit Court Judges and clerks of court (in conjunction with other stakeholders) play a large part in the effective management of the criminal docket. Studying this matter will determine if implementation of a more uniform method of criminal docket management across the state will enhance judicial efficiency and reduce the number of pending criminal cases.

### **3. Data Collection**

For purposes of this project, data from six judicial circuits and seventeen counties has been collected, reviewed, and analyzed. [Attachment B](#) outlines the pending case numbers for each circuit and county. The starting point for data collection is August 2022, as the first docket liaison was hired and began employment during that month.

All clerks of court were surveyed in August 2022 regarding their current docketing practices. Questions included but not limited to the following:

- 1) Does your county currently have a clerk or staff person designated to docket General Sessions cases?**
- 2) Who currently prepares your court dockets?**
- 3) What can the docket liaison help with in your county related to dockets or reducing the backlog of cases?**

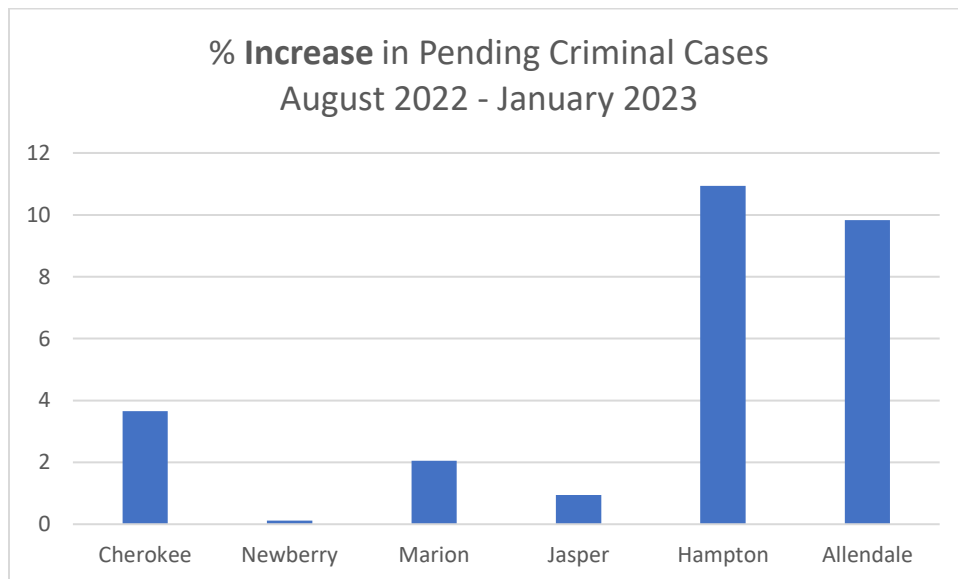
Forty-three of the state's 46 counties provided responses and 16 of the 17 counties selected for review for this project provided responses. Nine counties indicated they have a clerk on staff designated to docket cases and seven counties indicated they do not have a clerk on staff designated to docket cases. Six counties indicated the solicitor's office prepares the docket, four counties indicated the Clerk prepares the docket, three counties indicated the CJAP prepares the docket and three counties indicated "other." Responses listed under the "other" category included "the CJAP and Clerk," "the Solicitor for now, but a clerk position has been approved but not filled," and "CJAP and Solicitor." Responses provided indicate the docket liaisons assistance with the following items would be helpful: programming bondsman email addresses in CMS,

creating holding dockets, assisting with communication between solicitors and defense attorneys regarding new practices, and training staff on how to build dockets.

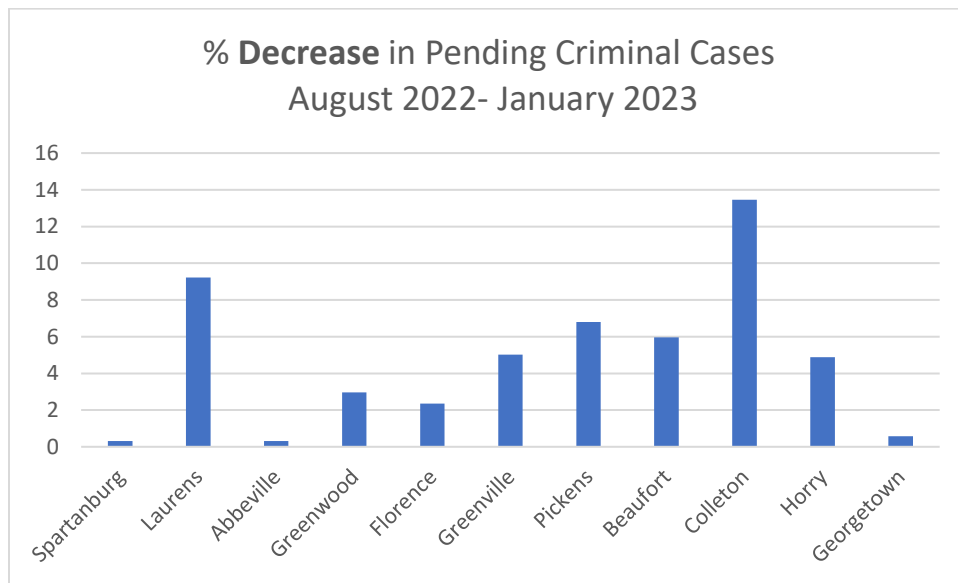
#### 4. Data Analysis

Based on the information gathered through the survey results, there is currently little uniformity in the way criminal cases are docketed. The *Langford* opinion and several subsequent directives explicitly indicate the docketing of cases should *not* be completed by the solicitor, however, it continues to be completed by the solicitor in some counties.

Six counties recorded increases in pending case numbers during the identified period and eleven counties recorded decreases in pending case numbers during the identified period as indicated by the charts below:



Of the six counties reporting increases in pending cases during the project period, three counties have a designated clerk to docket cases, two counties do not have a designated clerk to docket cases and one county did not respond. In reviewing the size of the counties reporting increases, they have an average of 29,920 citizens.



Of the eleven counties reporting decreases in pending cases during the project period, six counties have a designated clerk to docket cases and five counties do not have a designated clerk to docket cases. In reviewing the size of the counties reporting decreases, they have an average of 179,925 citizens. The larger counties appeared to reduce their caseloads while the smaller and medium sized counties appeared to increase their caseloads. This is likely due to the available resources in the larger counties and lack of resources in the smaller to medium sized counties.



## 5. Implementation Plan

Implementation of a more uniform method of docket management begins with identifying and consulting key stakeholders, which include the clerks of court, solicitor, public defender or private defense attorney, and CJAP. SCJB leadership has made contact with key stakeholders informing them of the duties and goals related to the docket liaison initiative. As technology tools are enhanced, SCJB expects to be able to track cases more efficiently, enabling clerks and judges to quickly identify which cases need their attention first. SCJB has contracted to procure a new case management system in the near future. A “best practices” document has been developed based on observations occurring on the local level. Procedures contained within the best practices document will continue to be reviewed and amended as necessary. It may become prudent to include a triage system focused on disposing of the older or more serious cases first. Because the docket liaison initiative is still in its infancy, the processes involving the liaisons continues to evolve. Once tested and well established, a memorandum outlining a single unified approach to managing the flow of cases will be disseminated statewide to all stakeholders. This directive will provide specific guidance and direction related to the docketing process used in criminal proceedings.

The following diagram outlines strategies to effectively manage the docket:

Effective Court Case Management				
Leadership & Governance	Early Court Control	Predictable & Productivity	Goals & Information Management	Communication & Collaboration
Define Clear Roles	Courts maintain and manage the progress of cases throughout the case lifecycle	Clear expectations that events occur when scheduled	Implementing standards and guidelines statewide	Frequent communication between SCJB, docket liaisons, and stakeholders

Maintain consistent court processes	Effective scheduling and calendaring	Firm continuance policy	Develop uniform definitions	Develop problem-solving culture
Develop transparency through the provision of accurate reports	Control of Continuances – limit to pre-defined reasons and very few exceptions	Firm trial dates	Create docketing procedures that must be followed statewide	Keep all stakeholders informed and engaged

Once hiring the remainder of the liaison positions is resumed, SCJB will incur additional costs related to their employment, but this expense is accounted for in the budget. Potential obstacles may include recruiting qualified candidates for the positions and change resistance from local officials. Docket liaisons will continue to be required to communicate daily with key stakeholders in their assigned circuits and provide specific and uniform recommendations for the efficient management of the criminal docket based on the contents provided in the “best practices” document which is further discussed below.

**6. Evaluation Method**

As the liaison initiative expands and becomes more robust, Circuit Court judges should be surveyed to determine whether they observe consistent and uniform docket management practices among the counties while they travel across the state. Based on information gathered during the course of studying this matter, it would be premature to poll the judges at this time because only certain counties have the benefit of a docket liaison. In August 2023 (12 months from the hiring of the first docket liaison), additional data should be gathered so a larger subset of information can be analyzed. This will assist in determining whether docket liaisons have successfully implemented uniformity among counties and whether that practice has resulted in a reduction of the number of pending criminal cases.

## ***7. Summary and Recommendations***

The criminal justice system as a whole has been under increasing pressure to improve judicial efficiency and reduce backlogs. This pressure was on increased by the pandemic. Uniformity in criminal docket management is an important factor for achieving justice and aligns closely with SCJB's mission statement, which is to provide a fair and efficient forum for the just resolution of civil and criminal matters. Adequate resources (whether personnel or technology-related) should be allocated towards achieving the goal of uniformity in docket management to ensure a just and efficient resolution of criminal charges. Utilizing a single unified approach to managing the flow of cases, allows for better tracking of all proceedings and is a strategic practice that should be implemented statewide. Providing the courts with the framework for improving their docket management practices benefits defendants and court personnel alike.

## **8. Attachments**

### Attachment A

Docket Liaison responsibilities include:

- In conjunction with the Chief Judge for Administrative Purposes (CJAP) and circuit Solicitor, create General Sessions dockets for each county within assigned judicial circuits with a focus and priority on moving and disposing of cases with the most age first.
- Provide advice and recommendations to the CJAP for the most effective docket management resulting in improvement of county benchmarks within assigned judicial circuits.
- Coordinate with and inform the County Clerk of Court, Circuit Solicitor, Public Defender, and CJAP of the cases set on the docket for each term of court.
- Complete forms and prepare monthly reports detailing statistics of criminal case data for review by the Chief Justice, State Court Administrator, and Court Directors. Continuously improve reporting methods.
- Interact with judges, court personnel, attorneys, and other stakeholders toward the objective of accurate and timely creation of criminal case dockets.
- Attend and observe court proceedings capturing outcomes, status of cases, and numbers of cases ended.
- Document number of continuances, reasons for continuances, and other relevant case information to assist in preparation of future dockets.
- Perform specialized clerical duties to support efficient and effective disposition of cases and conduct self in a professional and courteous manner at all times. Must exercise a high

level of discretion and adhere to confidentiality requirements.

- Attend meetings or training sessions as required.
- Perform all other duties as assigned.

**Note:** *This represents general duties performed by this position. It is not intended to be a comprehensive listing of all functions performed.*

Attachment B

**7<sup>th</sup> Circuit - Pending # of Criminal Cases as of:**

	August 2022	September 2022	October 2022	November 2022	December 2022	January 2023
Cherokee	2574	2618	2669	2706	2695	2668
Spartanburg	9898	9958	9914	9787	9775	9867

**8<sup>th</sup> Circuit - Pending # of Criminal Cases as of:**

	August 2022	September 2022	October 2022	November 2022	December 2022	January 2023
Newberry	1716	1722	1684	1728	1734	1718
Laurens	5009	4930	4770	4753	4587	4547
Abbeville	962	937	986	972	972	959
Greenwood	5024	5050	4988	4868	4943	4875

**12<sup>th</sup> Circuit - Pending # of Criminal Cases as of:**

	August 2022	September 2022	October 2022	November 2022	December 2022	January 2023
Florence	7174	7210	6940	7194	6994	7005
Marion	1312	1376	1444	1268	1296	1339

**13<sup>th</sup> Circuit - Pending # of Criminal Cases as of:**

	August 2022	September 2022	October 2022	November 2022	December 2022	January 2023
Greenville	19047	18935	18845	18464	18100	18090
Pickens	5511	5373	5191	5095	5065	5136

**14<sup>th</sup> Circuit - Pending # of Criminal Cases as of:**

	August 2022	September 2022	October 2022	November 2022	December 2022	January 2023
Beaufort	5276	5377	5340	5365	5005	4961
Jasper	1623	1680	1727	1804	1725	1638
Colleton	1992	2007	1956	1872	1798	1724
Hampton	1032	1058	1046	1120	1127	1145
Allendale	366	397	413	428	413	402

**15<sup>th</sup> Circuit - Pending # of Criminal Cases as of:**

	August 2022	September 2022	October 2022	November 2022	December 2022	January 2023
Horry	9168	9270	8968	8906	8969	8720
Georgetown	1370	1338	1236	1227	1280	1362

**Note:** SCJB is not by law the custodian of court records. Because SCJB receives information as a third party, SCJB cannot guarantee the accuracy of the information contained in these reports. While SCJB strives to keep the reports as accurate as possible, the data contained in these reports are reliant on information maintained at the local level.