



South Carolina's Prosecutors  
- Innovative Programs -

National Prosecutors' Consortium

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November 2019

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# The Evolving Role of the Prosecutor

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Over the last forty years, there has been a dramatic transformation and expansion of prosecutors' mission, to not only vigorously prosecute criminal cases, but also to engage in crime prevention, problem solving and community partnerships. Prosecutors' fundamental goal is to protect the community and ensure justice when enforcing the law. Traditionally, a prosecutor's role was a limited and relatively passive one - to evaluate and prosecute arrests made by the police.<sup>1</sup> That role has expanded and evolved significantly. The shift is driven by the need for more complex solutions that not only seek positive outcomes for victims, but also strive for long-term solutions for preventing crime and assisting those who are entangled in the criminal justice system.

Prosecutors are uniquely situated to be effective in carrying out these new initiatives. They play a pivotal role in the criminal justice system, making decisions and exercising discretion about whether to prosecute, whom to prosecute, and how to prosecute. Also, as leaders in law enforcement, prosecutors can work with the police and other partners to improve community relationships and to build trust in the criminal justice system.



1. Catherine M. Coles, *Evolving Strategies in 20<sup>th</sup>- Century American Prosecution*, in *THE CHANGING ROLE OF THE AMERICAN PROSECUTOR, 182-187* (John L. Worrall & M. Elaine Nugent-Borakov, eds., 2008).

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## The National Prosecutors' Consortium

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The National Prosecutors' Consortium (NPC) project is designed to collect information on innovative programs employed by prosecutor offices, to assist prosecutors in developing and deploy-

ing new programs, and to expand their research capabilities. The main areas of focus are the prevention of violent crime, community engagement, and encouraging victim/witness cooperation.

Many of the nation's prosecutors relish the opportunities presented by their expanded roles in the criminal justice system and have adopted innovative programs. However, the nature of their new initiatives is impacted by the size and resources of the organization. A large office with plentiful resources can implement multiple forward-thinking initiatives that impact a large segment of their population. Conversely, a smaller jurisdiction may only have the capacity to develop a smaller, yet still meaningful initiative.

Innovative programs described in this paper are newly developed initiatives undertaken by an office in keeping with its unique resources and the needs of its community. Ideas for new programs are freely shared amongst prosecutors and can nevertheless be innovative when they are introduced, implemented, and customized to suit the needs of a particular office. For instance, a program that would be considered innovative in a smaller office, may be more common-place in a larger office. We seek to highlight those offices that are embracing their new role by working within their capacity to bring effective and proactive programs to their communities.

As part of the NPC project, a prosecutor survey was administered during 2019 at the county level across the United States on a state-by-state basis. The survey captures baseline information about prosecutor offices and collects information about the various evolving and non-traditional aspects of a prosecutor's office, such as alternatives to incarceration, preventing violent crime, community outreach, victim/witness support, and treatment programs.



## Overview of South Carolina Prosecutor Programs

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South Carolina prosecutor offices range in size and in the types of communities that they serve. Some serve in large bustling cities and others work in suburban districts or rural areas. The available resources and staff vary greatly between the offices, as does the needs of their communities.

Out of 16 offices, 14 (88%) of the prosecutors in South Carolina participated in the NPC survey. The survey demonstrates that the responding South Carolina prosecutors participate in a wide variety of programs and initiatives. These programs include Drug courts, Veterans' courts, Anger management programs, Witness Assistance, Community Engagement initiatives, and Co-located Child Abuse reduction programs.

The survey found that 100% of South Carolina's responding offices engage in problem solving courts or other programs that offer alternatives to incarceration. Many offices offered Anger management (71%) and training/education programs (64%). All offices had Victim Assistance, and many had Witness Assistance (86%) and Restitution programs (71%).

Community programs that prosecutors either run or participate in are also common. Such programs include Community Engagement (79%), Co-located Child Abuse reduction (71%), Co-located Domestic Violence reduction programs (71%), and Youth Education initiatives (64%). Some prosecutors also run Truancy (57%) and Violence Reduction (50%) programs.

Solomon, S. E., Uchida, C. D., Connor, C., Swatt, M. L., Revier, L., Quigley, A. M., Hock, S., & Barrera, V. (2019). National Prosecutors' Consortium Survey Highlights: South Carolina. Justice & Security Strategies, Inc.

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## Innovative Programs - Examples

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To demonstrate the variety of innovative programs initiated in South Carolina, three offices are highlighted: the 9<sup>th</sup> Judicial Circuit with almost 630,000 residents, the 14<sup>th</sup> Judicial Circuit, a mid-sized office with 286,000 residents, and the 4<sup>th</sup> Judicial Circuit, with just over 170,000 residents.

The 9<sup>th</sup> Circuit initiative is an innovative data collection program where assistant prosecutors enter data and code results of court actions. The information is ultimately published on the Solicitor's website, so that the public can view the justifications and recommendations of the prosecutors for comparison to the resulting sentences. The 14<sup>th</sup> Circuit leverages advanced, in-house analytical capabilities and expertise to aid their Career Criminal Unit, prioritizing the worst of the worst offenders. The 4<sup>th</sup> Circuit developed a community service program that allows diverted offenders to replace up to half of their required community service hours with a donation to a local service provider in need of resources.

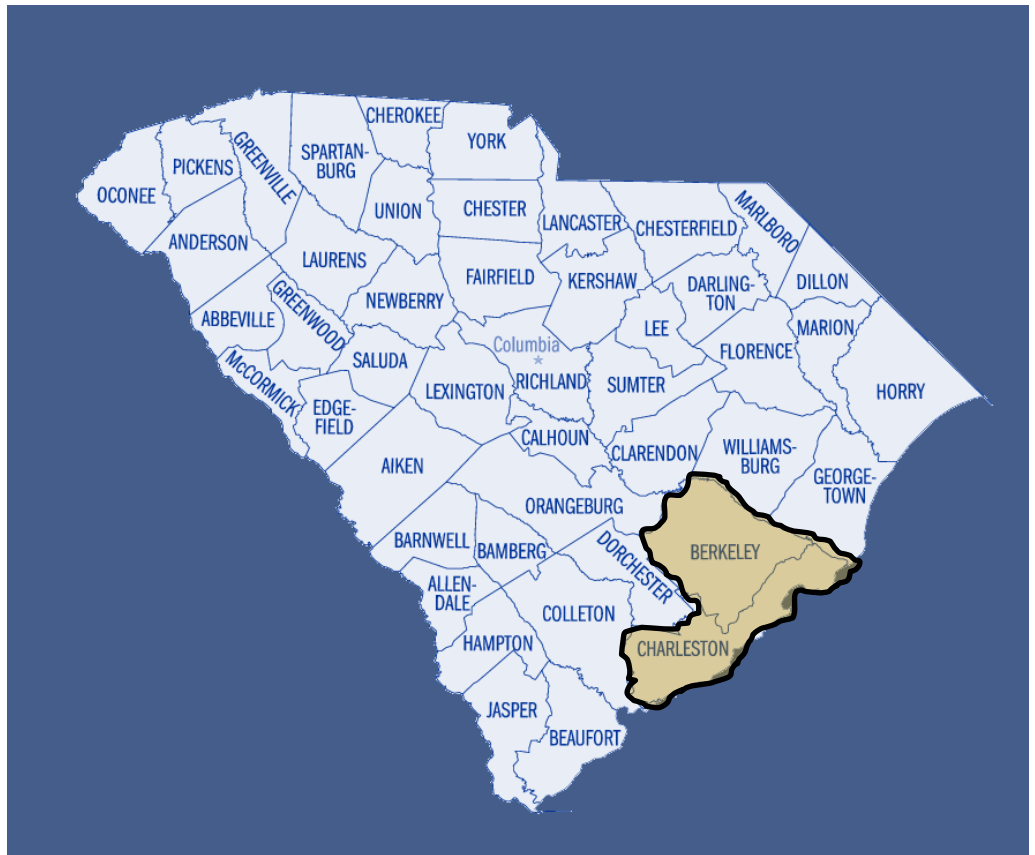
# 9th Judicial Circuit Solicitor's Office – Charleston and Berkeley Counties

Population: 626,996

Number of Prosecutors: 51 full-time prosecutors, 1 part-time prosecutor

## Data Collection and Transparency Efforts

The need for more data to gain insight into prosecutorial practices has been widely recognized by the public and by prosecutors themselves. More information provides the ability to identify, analyze, and correct the root causes of mass incarceration and racial disparities in the system. The most basic and widespread challenge is that many prosecutors' offices do not have the capacity to gather basic information about their practices. Solicitor Wilson is seeking to change this practice in the Ninth Judicial Circuit, as she believes transparency will help improve prosecutorial outcomes and efficiency, and will build trust and foster accountability in the local community. With data from the Ninth Judicial Circuit Solicitor's Office, the public will be in a better position to understand prosecutors' decisions and to hold them accountable.



Solicitor Wilson joined the small, but growing number of prosecutors across the nation leading the charge for data collection. In January 2019, she implemented a data collection program where assistant prosecutors enter data and code results of court actions. The data relating to prosecutors' sentence recommendations and reasons for dismissals will ultimately allow for insightful analysis. Through the Solicitor's website, the public now has access to the justifications and recommendations of the prosecutors for comparison to the resulting sentences. This information will give the public a better understanding of what happens in court, and why.



Data can reveal key insights in the area of implicit bias in prosecution. It is well known that unconscious bias is a challenge for prosecutors and other professions alike. Over time, collecting and analyzing data will help the Solicitor's Office to analyze any patterns of racial disparity and disproportionality in sentence recommendations and dismissals. Should they discover disparity or disproportionality (and therefore implicit or unconscious bias), they will be able to intervene to make adjustments in their approach and to provide more training to assistant prosecutors.



Another area of great interest for data analysis is the management of the trial docket that is now under the control of court administration. Solicitor Wilson is now tracking the results of each case on the trial docket. The Solicitor's Office will be able to track the number of cases that are continued and the reasons for these continuances. Data captured include the moving party, the nature of the continuance, and the result of the continuances to identify patterns. Tracking this information will show whether the Solicitor's Office has continual problems with particular agencies in obtaining discovery, who is requesting the continuances and why, and whether specific judges are more prone to grant continuances. The Solicitor's Office is using over 20 codes to document cases continued.

In addition to helping address implicit bias, additional data collection can also speak to a key challenge facing the Ninth Circuit—the recidivism of dangerous offenders who are repeatedly arrested and allowed to post bond. These re-arrests not only pose a danger to the community, they stymie the criminal justice process. As a result, the Solicitor's Office is now tracking and posting all of their motions to revoke bond due to violations of bond conditions and re-arrests. This information is key to analyzing recidivism and will help legislators understand this serious issue. Furthermore, the data will document the Solicitor's Office's efforts, the court's response and the outcomes for dangerous offenders. This also will allow the Solicitor's Office to document the crime patterns of offenders who are out on bond.

The effects of this new data collection effort are extremely positive. In leading this effort, the Solicitor's Office is empowering the community through transparency and accountability. The community can now better understand how the criminal justice system is functioning in the South Carolina's Ninth Judicial Circuit. Perhaps most importantly, the Solicitor's Office is gathering data that can inform efforts to eliminate implicit bias in state prosecutions.

# 14<sup>th</sup> Judicial Circuit Solicitor's Office— Allendale, Colleton, Hampton, Beaufort and Jasper Counties

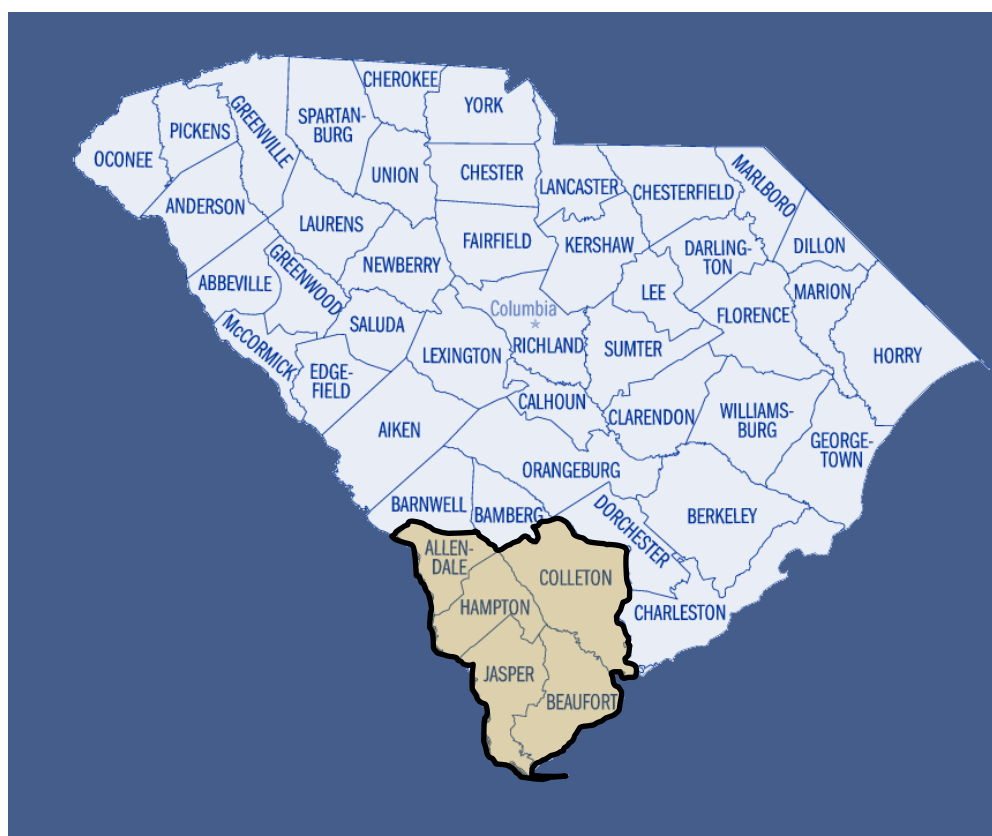
Population: 286,000

Number of Prosecutors: 23 full-time prosecutors, 1 part-time prosecutor

## Career Criminal Unit

When Solicitor Duffie Stone created the 14<sup>th</sup> Circuit's Career Criminal Unit (CCU) in 2009, he did so with the Pareto Principle in mind—20% of the people are responsible for 80% of the results. Therefore, the Unit does not focus on reducing one specific category of crime, but rather addresses one category of offender – the crime driver. The Unit's goal is to identify and prosecute the “20%”—those offenders

responsible for the most crime regardless of the crime type. In developing the program, the 14<sup>th</sup> Circuit applied principles learned from the Manhattan District Attorney's Office Crime Strategies Unit, which uses data and crime analysts to identify crime patterns and crime drivers. These principles were adapted to work in a medium sized office.



The Unit began by hiring an intern who had worked at the South Carolina Fusion Center. Though it was not feasible to fully replicate the technical systems and personnel of a state Fusion Center, the new staff person had experience with the Fusion Center technologies and was allowed remote access to Fusion Center analytical systems. Using data, the Unit has developed an objective standard for determining the worst-of-the-worst career criminals and uses that standard to direct their analytical work.

The Unit has since grown to four analysts, two intake personnel, two case-specific investigators, and four volunteers. The four analysts have essential expertise in computer systems, social media investigation, cell phone data analysis, and other IT-related skills. The intake personnel are certified in NCIC, Gangnet, and other databases that they use to guide the intake process. Volunteers known as Community Staff are fully vetted by the Solicitor's Office and also play a critical role, as they listen to the plethora of jail calls from each of the five county jails.



Highly experienced prosecutors and investigators are assigned to the Unit. They are physically adjacent to the analysts and volunteers. This promotes efficiency and collaboration, allows real-time exchange of intelligence, and focuses the work of the office on those who are causing the most harm. The data, analytics, and intelligence gathered by the Unit is also shared with law enforcement and has assisted in developing cases against serious offenders.

During intake, analysts pull data from every jail in the circuit. This is particularly important because with five separate jails, there is disparate information that must be connected. The intake personnel then run the offenders through various databases such as NCIC, Gangnet, internal files to see if they have a pending case on the docket, and if they are in a local gang database. Of particular concern are those who have been released on bond and are still commit crimes. This information is compared against the Unit's standard to determine if the offender should be given enhanced attention as a crime driver.

The Unit also helps prosecutors and law enforcement prepare for trial by gathering valuable evidence. The analysts research social media, digest jail calls, and create exhibits. Two analysts are also computer experts that can search computers and cell phones with proper warrants.

The Unit has focused the office on the most serious offenders and provides enhanced analytical support to the prosecutors handling those cases. Given the risks to public safety, the office policy is not to plea bargain these cases. As a result, prosecutors are trying twice as many cases and have achieved a 90% conviction rate for these offenders.

Finally, and also very importantly, the jail population in the first six months of the program was cut in half.

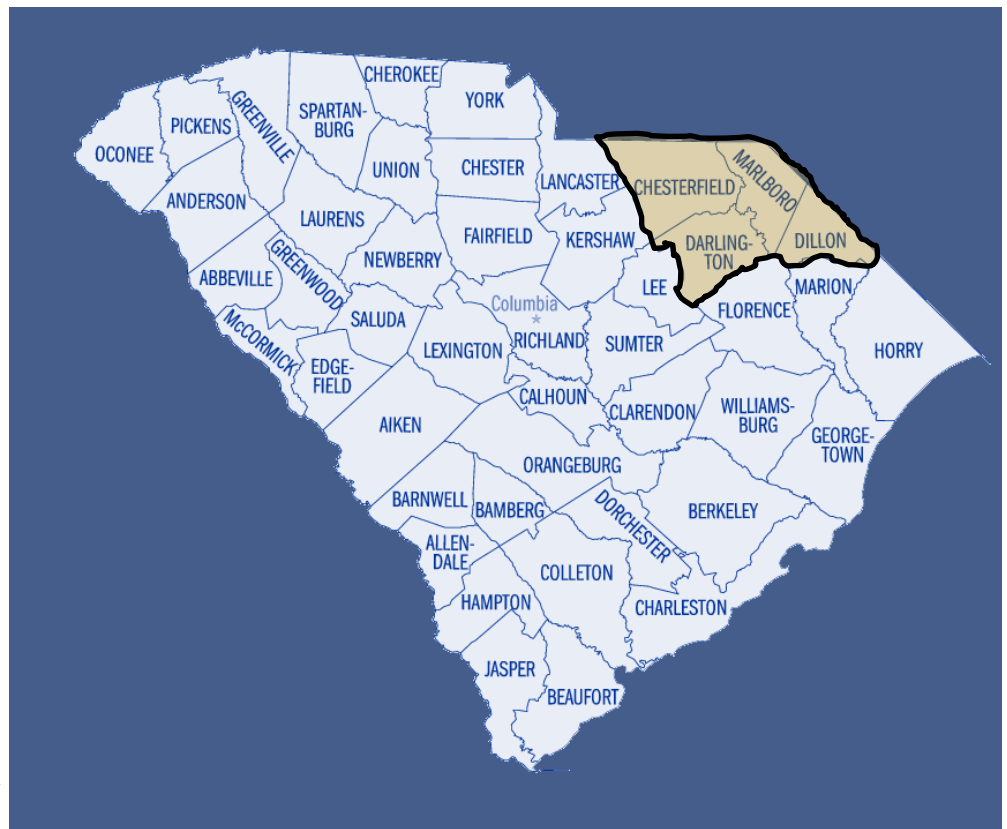
# 4th Judicial Circuit Solicitor's Office— Chesterfield, Darlington, Dillon and Marlboro Counties

Population: 170,704

Number of Prosecutors: 10 full-time prosecutors, 3 part-time prosecutors

## Diversions and Community Service

Solicitor Will Rogers and the Fourth Circuit Solicitor's Office oversee multiple intervention and diversion programs for adult and juvenile offenders. Programs include Juvenile Arbitration, the Juvenile Pre-Trial Intervention Program, and the Adult Drug Court Program. Programs such as the Pre-Trial Intervention Program, Domestic Violence Intervention Program, Alcohol Education Program, and Traffic Education Program offer participants a unique opportunity to provide local organizations and the community with donated items.



In 2017, it came to Solicitor Rogers' attention that local organizations were struggling to provide adequate resources and necessary items for the ever-increasing number of people under their purview. Solicitor Rogers and his office were determined to make a positive change when they entered into a partnership with McLeod Nurse-Family Partnership and Pee Dee Coalition. These two organizations serve the four counties that make up the Fourth Judicial Circuit. McLeod Nurse-Family Partnership provides education and resources to first-time mothers and their babies through age two. Pee Dee Coalition is a non-profit, volunteer, organization dedicated to reducing

sexual assault, family violence, and child abuse while serving the needs of victims. Pee Dee Coalition has satellite crisis centers placed in each county and the Durant Children's Center, which serves child victims of sexual assault and their families. The newest expansion of Pee Dee Coalition is the New Beginnings Transitional Shelter. New Beginnings provides a secure home where women and children, who are past victims of domestic violence, can live for up to 24 months while transitioning into their new lives.

In order to assist the community, whilst encouraging offenders to maintain their current jobs and attend their required education or treatment classes, the Fourth Circuit Solicitor's Office implemented an alternative way for participants to complete their community service hours. Typically, required community service hours range from 10 – 80 hours per participant. By choosing the donation option, participants elect to purchase items from a needs list to count towards half of their community service. All items must be purchased new and turned in to the Solicitor's Office with the purchase receipt for verification. The Solicitor's Office inventories and records all items prior to dispersing the donations to the aforementioned organizations.



Solicitor Rogers next to some of many donated items from community service donations.

Solicitor Rogers and the Fourth Circuit Solicitor's Office have experienced great success in providing a way for families and victims in the Fourth Circuit to acquire needed items. They have an extensive list of items including more than 400 boxes of diapers, 300 packs of baby wipes, 500 packs of paper towels, 150 bath towels, and over 700 cleaning supplies that have been donated. Many participants choose to exceed the monetary value of \$30 (for 10 hours of community service) due to the meaningfulness of the donation option. Prosecutors and defense attorneys alike have praised Solicitor Rogers and his office for an innovative way to provide service to the community. Approximately 65-70% of past program participants have elected to utilize the donation option to fulfill part of their community service requirement.