

**A REVIEW OF THE IMPACT OF  
CASE PROCESSING ON JAIL CROWDING  
IN FOUR SOUTH CAROLINA COUNTIES**

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## **I. INTRODUCTION**

### **A. Project Background**

In 1995, the Edna McConnell Clark Foundation began working with South Carolina officials at the state level to implement the Foundation's State Centered Program. The objective of the State Centered Program, which the Foundation operates in eight states, is to assist policy makers in the selected states in controlling the growth of the prison population while maintaining public safety. A main focus of the program is to assist states to develop a continuum of sentencing options to provide intermediate sanctions between prison and probation.

As the Foundation began working with South Carolina officials, discussions ensued about the problems of overcrowding experienced by local jails throughout the state and how those problems might interfere with the implementation of effective sentencing options. As a result, addressing those problems became a part of the South Carolina State Centered Program. The Foundation contacted the Pretrial Services Resource Center (PSRC) to provide county-level assistance.

### **B. Project Overview**

County jails throughout South Carolina are crowded and the populations continue to grow, with a 36 percent increase in the average daily population statewide between 1990 and 1995. In 1995, the jails were operating at 105 percent of their rated capacity, despite a building program that has increased capacity 73 percent during the 1990s.<sup>1</sup>

Given the pervasive problem of jail crowding in the state, the Clark Foundation awarded a grant to PSRC to conduct:

- a review of current case processing procedures in selected counties to determine if there are viable system adjustments that might be made that would decrease the length of detention for pretrial detainees through more efficient case processing, while insuring that the quality of justice is maintained; and
- an assessment of the impact of implementing a pretrial screening and supervision function in the counties.

Staff of the State Centered Program identified four counties in the state that might best benefit from this assistance. In selecting the counties, it was agreed that there should be a mix of large, medium sized, and rural jurisdictions. The counties selected were:

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<sup>1</sup> South Carolina Department of Corrections, Division of Audits, Inspections, and Inmate Affairs.

- Spartanburg (population 227,000);
- Lexington (population approximately 168,000);
- Lancaster (population 55,000); and
- McCormick (population of less than 10,000).

Based upon discussions with Clark Foundation and South Carolina officials, the goals of this project are to:

- 1) examine how criminal cases are currently processed in the four counties from arrest through disposition;
- 2) identify areas in which the processing of cases can be facilitated in each of the four counties;
- 3) analyze the projected impact of implementing pretrial screening and supervision functions in those counties; and
- 4) provide guidance on case processing and pretrial screening and supervision to other counties in the state, based on the experiences garnered from the above assistance.

### **C. Project Approach**

Addressing the causes of and remedies for jail crowding is complex, requiring an examination of how decisions are made to release or detain an individual pending trial, the programmatic alternatives to jail that exist, and of how efficiently cases are processed through the system. Since it was known at the outset that none of the four counties studied had a pretrial screening and supervision function to aid judicial officers in making pretrial release decisions and to offer programmatic alternatives to pretrial detention, the main focus of this report is to examine how cases are processed through the system. A later report will include an analysis of the projected impact of a pretrial screening and supervision function, and a description of what such a function would look like in each of the counties.

PSRC staff interviewed system actors in each of the four counties (a list of persons interviewed appears in Appendix A), reviewed existing data, and, in some cases requested additional data be gathered.

## II. CASE PROCESSING AND PRETRIAL RELEASE DECISION MAKING IN SOUTH CAROLINA: ROLES OF KEY OFFICIALS

While the individual practices of the four counties vary, a basic structure influences case processing and pretrial release decision making throughout the state.

### *County Jail*

Persons taken into custody by law enforcement officials<sup>2</sup> are taken to the county jail.<sup>3</sup> The operation of the county jail is the responsibility either of the Sheriff, who is elected by the voters, or a jail director, who is appointed by and reports to the county administrator or the county council.<sup>4</sup>

### *Magistrates*

Arrestees appear before a magistrate for bail setting shortly after arrest.<sup>5</sup> State law requires that at least two bail setting sessions be held by magistrates every day, seven days a week.

At the bail hearing, at least in each of the four counties examined, magistrates attempt to obtain the defendant's criminal history through a computer check. In most cases, the magistrate will have the police incident report describing the circumstances that led to the arrest. There are occasions, however, where this information is not available. At the bail hearing, magistrates typically ask defendants about their address and employment status to gather whatever information they can about the defendant before setting bail. Except where a family member or friend is present at the bail hearing, there is no means to verify the information provided by the defendant to assure that it is accurate. In most cases, there is no one from the solicitor's office or

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<sup>2</sup> Most counties throughout the state have a number of police agencies that can deliver arrestees to the county jail. Many of these agencies have different policies regarding when a person should be taken into custody versus released on a citation.

<sup>3</sup> Several municipalities operate their own jail or lock-up, overseen by the police chief.

<sup>4</sup> Under state law, counties hold inmates who have been sentenced to terms of 90 days or less for criminal convictions and one year or less for civil contempt, which typically results from failure to pay child support. All persons sentenced for criminal offenses to terms exceeding 90 days are the responsibility of the state prison system.

<sup>5</sup> Persons arrested for violations of municipal ordinances or state offenses occurring within the municipality that carry a maximum penalty of 30 days in jail or a \$500 fine appear before a municipal court judge for both bail setting and case disposition in those South Carolina jurisdictions that have such a judicial officer. Persons arrested for a capital offense or Burglary I must have bail set by a circuit court judge.

public defenders office at the bail hearing.

In making the bail decision, the magistrate chooses between release on recognizance and a financial bail, including surety, property, or cash. There are no bail guidelines or bail schedules in place in any of the four counties to provide direction to magistrates in setting bail.

In addition to bail setting responsibilities, magistrates, who are appointed by the governor to four-year terms, have authority to issue arrest and search warrants, take pleas, conduct trials, and impose sentences in any case that has a maximum penalty of 30 days in jail and a \$500 fine. They also conduct preliminary hearings in felony cases.<sup>6</sup>

Any case that involves a maximum penalty exceeding 30 days in jail is assigned to the general sessions court to be heard by a circuit court judge. The process of assigning the case to this court begins with the magistrate conducting the bail hearing. That magistrate is responsible for transmitting the warrant -- or charging document -- to the clerk's office<sup>7</sup> within 10 days of arrest. Once the clerk's office receives the warrant, it creates a file on the case and sends a copy to the solicitor's office, which then begins to create its file on the case.

### *Solicitors*

The solicitor's office in each judicial circuit prosecutes all general sessions court cases. The solicitor is elected by the voters in the judicial circuit and appoints a staff of assistant solicitors. Once the solicitor's office receives the case, staff review it and decide whether to proceed with the charges. The solicitor's office has the option of dropping the charges at that point if prosecution does not seem justified.

If the case proceeds to prosecution, the first step is bringing it before the grand jury for an indictment and/or to a magistrate for a preliminary hearing. Once the case has been indicted, the solicitor's office has the responsibility of scheduling all future court hearings in general sessions

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<sup>6</sup> Magistrates, who need not be attorneys, must pass a certification examination within one year of appointment. A seven-member board oversees the training and certification process for magistrates. There are approximately 285 magistrates in the state. In addition to criminal duties, magistrates also have civil jurisdiction in cases where the amount in controversy does not exceed \$5000.

<sup>7</sup> Each county in the state has a Clerk of Court who is elected by the public to a four-year term. In addition to notifying the solicitor's office of all general sessions court cases coming from magistrates court, clerks are responsible for receiving bail, fees, fines, restitution, and child support payments, compiling trial lists, performing courtroom duties, handling jury-related matters, maintaining all court records, and meeting reporting requirements of the state Court Administration.

court.

The solicitor's office in each of the four counties<sup>8</sup> employs a case scheduling system called "Roll Call" to monitor the status of all pending general sessions court cases of defendants who have been released from custody. Typically, the solicitor's office will require that all such defendants report on the first day of the term of the general sessions court. Solicitors call the names of each of these defendants, assure that they are present (a warrant for their arrest may be requested if they are not), and determine whether their cases are ready to be heard during that term of court, or if they must wait until a later term. Often, many of these defendants are required to report on each day of the term of court if there is uncertainty whether their case will be reached. Others can be excused after the first day of the term and required to report back the first day of the next term. This is particularly true of defendants who have not yet been indicted or who are employed.

### ***Pretrial Intervention***

Certain cases can also be referred to the Pretrial Intervention (PTI) program. Participants in the PTI program, which falls under the Solicitor's Office, are given the opportunity to have charges against them dismissed and the record of the arrest erased if they comply with the program requirements. Typical requirements include: performing community service, paying any restitution to victims, reporting to the PTI program on a regular basis, and undergoing alcohol or drug counseling if appropriate. Cases are reviewed every three months, with a maximum time in the program of one year. In cases of non-compliance, prosecution of the case proceeds.

Under state law, persons charged with certain offenses are ineligible for pretrial intervention. Arrestees are often referred to the program by the arresting officer, bail-setting magistrate, solicitor, public defender, or a family member. The program charges a \$50 application fee and a \$250 participation fee. The solicitor's office makes the final decision regarding admission to the program and dismissal of charges and expungement of record upon completion of the program.

### ***Circuit Court Judges***

Forty circuit court judges, who are elected to six year terms, rotate to 16 judicial circuits throughout the state. The rotation assignments are made by the state Court Administration office. Criminal cases are heard during a term of general sessions court that lasts from one to three weeks.<sup>9</sup> The larger counties in the state have more terms of general sessions court each

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<sup>8</sup> Two of the counties, Lexington and McCormick, fall within the same judicial circuit and are served by the same solicitor.

<sup>9</sup> Circuit court judges also rotate responsibilities in the Court of Common Pleas, the civil court.

year than the smaller counties. The smallest counties may only see a circuit court judge for criminal cases two or three times a year.

Under South Carolina law, a circuit court judge may, with the defendant's approval, transfer a case that carries a maximum potential penalty of one year or less to be heard by a magistrate. Referred to as "transfer courts," this mechanism allows a case to be heard more quickly than if it remained on the general sessions court docket.

### ***Public Defender***

The public defender's office defends all indigent defendants. In counties with smaller populations, the same public defender's office will be assigned all indigent cases for several counties. The chief public defender in a jurisdiction is appointed by a locally appointed board.

### ***Probation and Parole***

Probation and parole is run at the state level by the Department of Probation, Parole, and Pardon Services, with "Agents in Charge" supervising several multi-county regional offices. When a probationer or parolee is alleged to be in violation of conditions, the probation/parole officer can either issue a citation requiring the offender to appear at a later date for a violation hearing, or issue a warrant for the offender's arrest. If the person is taken into custody for a probation violation, a magistrate can either release the person on recognizance pending the violation hearing or set a financial bail. If a parole violation is involved, a circuit court judge determines release pending the violation hearing.

The first step in the violation process is a hearing before an administrative officer. There are separate administrative officers for probation and parole cases. These officers either handle the violation administratively -- i.e., increase community service hours, intensify reporting requirements -- or refer the matter for a formal violation hearing. In probation cases, this hearing is conducted by a circuit court judge. In parole cases, the parole board conducts this hearing.

Probation officers rarely prepare pre-sentence investigation reports, and only upon request by the court.

### ***Family Court Judges***

Among the responsibilities of family court judges in South Carolina is to sanction parents who fail to meet court-ordered child support payments. Failure to pay child support can result in a finding of civil contempt of court and imprisonment of up to one year in the county jail.<sup>10</sup>

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<sup>10</sup> The 49 family court judges also have jurisdiction over juvenile court, and handle all other family and domestic relationship matters.

### III. DESCRIPTIONS OF THE FOUR COUNTIES

#### A. Individual County Descriptions

##### *Spartanburg County*

Spartanburg County had a population on April 1, 1990 of 226,800, a 12 percent increase from 1980. It is the fourth largest county in the state in population and the ninth largest in land area. It ranks fourth in terms of residents per square mile. It has the fourth highest crime rate in the state, and ranks third for the number of inmates sent to the state prison system.<sup>11</sup>

A new state-of-the-art jail opened in the county in August 1994. The jail is run by a jail administrator, who is appointed by and responsible to the County Council. The jail has a capacity of 436 inmates and had an average daily population in April 1996 of 444.3, including an average of 30 federal inmates being held for the federal court pursuant to a contract with the U.S. Marshals Service. There is also a jail annex, located across the street from the courthouse, which is filled with pretrial detainees to its capacity of 130 inmates.

The county jail population has grown rapidly in recent years, going from an average daily population of 204 during fiscal year 1990-91 to 462 in the 1995-96 fiscal year. This rise in the average daily population has occurred even though the number of admissions to the jail has remained relatively stable over the past five years. The jail population is comprised of approximately 70 to 75 percent pretrial defendants and 25 to 30 percent sentenced offenders.

The jail population increase and a resulting increase in operating costs for the jail facilities has county officials concerned. The operating budget rose 10 percent between the first year of the operation of the new jail and the current fiscal year. Much of this added cost has been attributed to a 61 percent increase in the budget for feeding inmates, costing the county an extra \$200,000 this year alone.

Given these concerns, the county recently established a Criminal Justice Committee, a group comprised of key criminal justice system actors<sup>12</sup> and chaired by the Vice-Chairman of the County Council. It meets monthly to coordinate activities of the criminal justice system in Spartanburg County.

There are approximately 20 different police agencies in the county, with the Sheriff's Department and City of Spartanburg being the largest. With the exception of those arrested in

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<sup>11</sup> *South Carolina Statistical Abstract*, 1994.

<sup>12</sup> Committee members include the solicitor, public defender, jail administrator, magistrates, and probation and parole agent-in-charge.

the City of Spartanburg on charges that carry a penalty of 30 days or less (who are held in the city's jail and appear before the city's municipal court judge), persons arrested in the county are brought directly to the new county jail.

Between 8 A.M. and midnight on weekdays, magistrates arraign defendants through video hook-up between the jail and the courthouse, which is several miles away.<sup>13</sup> These arraignments are held at least once every four hours during this period. Between midnight and 8 A.M. on weekdays and around the clock on weekends and holidays, a magistrate is on duty at the jail, handling all new cases as they come in.

Those defendants given ROR by the magistrates are released immediately from the jail. Those with bail set and who are not able to post the amount immediately are given an opportunity to make telephone calls. If they have not arranged to get out within a couple hours of seeing the magistrate, they are brought into the jail's housing unit.

Preliminary hearings are held two days a week and are conducted by magistrates, with the public defender and solicitor present. These hearings typically are held within two to three weeks of arrest. This hearing marks the first appearance in court for both the solicitor and the public defender.

An investigator from the public defenders office goes to the jail every day to interview new arrestees. In most cases, the attorney does not meet the defendant for the first time until the preliminary hearing.

The solicitor's office completes screening of cases and collection of discovery material, and can begin plea negotiations with the public defender within 30 days of arrest. To give priority to the processing of jail cases, one staff person's sole responsibility is to move these cases along.

Although there are four courtrooms in Circuit Court, on most days only one general sessions court is in session. In a recent six month period, there were 24 weeks of general sessions court, meaning approximately one judge holding criminal court per week.

Many in-custody defendants whose cases are ready for disposition are brought from the jail to the old jail, which is used as a holding facility for court cases and is located across the street from the courthouse. Officials are discussing the feasibility of renovating the courthouse to provide a holding room much closer to the courtroom. This, they believe, would greatly expedite processing as attorneys could move back and forth quickly between the courtroom and holding facility to work out pleas without wasting much of the court's time.

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<sup>13</sup> The Spartanburg County Magistrates Court is staffed by six full-time and eight part-time magistrates, a Magistrates Court Administrator, and several clerical positions.

There is no regular mechanism for bail reviews, which seem to rarely occur. Two reasons were advanced for the lack of systematic review of bails. First is lack of resources in the Public Defender's Office, which is responsible for filing motions for bail reviews to the court. Six full-time lawyers in that office each handle approximately 350 cases per year. Second, the public defender says it is hard to initiate bond reviews until the solicitor has all the paperwork together on a case, which does not occur until right before the preliminary hearing.

One project that the system is working on that has implications for case processing is to implement a transfer court in Spartanburg County. The magistrates, solicitors and public defenders were all in agreement that such a court in Spartanburg County would speed the processing of these cases.

As in many jurisdictions, each agency in the county criminal justice system has its own automated information system but none presently are integrated. The county's Management Information System office, which has a representative on the Criminal Justice Committee, is working to pull these systems together so that all users can follow a case from the issuance of a warrant, through arrest, bail setting, adjudication, and sentencing through to the completion of a sentence. It is expected that the entire process will be completed within the next several months.

### *Lexington County*

Lexington County's population on April 1, 1990 was 167,611, nearly 20 percent higher than 10 years earlier. It is the fifth largest county in the state in population and 17th largest in size. Its crime rate is the 17th highest, and ranks eighth in the number of inmates sent to the state prison system.<sup>14</sup>

The Lexington County Jail has a rated capacity of 272 inmates, but was averaging 375 in June 1996. Of these, approximately 75 are held for the federal court under a contract with the U.S. Marshals. Of the remaining, 80 to 85 percent are awaiting trial. The average daily population has grown from 327 in both 1994 and 1995 to 365 in the first quarter of 1996. The jail has been cited regularly by state Department of Corrections inspectors for exceeding its capacity, which has resulted in inmates sleeping on the floor, and for a number of maintenance problems attributed to the overcrowding.

The Sheriff's Department is responsible for the operation of the jail. A Sheriff's Department captain serves as the jail administrator.

At least 12 different law enforcement agencies in the county deliver to the jail individuals taken

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<sup>14</sup> *Supra* note 11.

into custody. Bail hearings are held at the jail before a magistrate twice a day - at 8A.M and 7P.M. weekdays and 8A.M. and 4P.M. on weekends.<sup>15</sup>

If the case is a magistrate's court charge (maximum penalty of 30 days in jail), the magistrate sets a court date at the bail hearing. If the case is a general sessions court charge and the defendant is being released, the magistrate directs the defendant to report for the next scheduled Roll Call.

For those defendants who are held in lieu of bail by the magistrate, the clerk's office visits the jail once a week to see if there is anyone who wishes to apply for a public defender. Once the case is assigned to the public defender's office, a paralegal from that office visits the jail for a first interview with the client.

After bond is set by the magistrate for general sessions cases, the magistrate is responsible for transmitting the warrant, or charging document, to the clerk's office. Some magistrates reportedly are very quick in transmitting these documents, others wait until they have several and transmit them together. Once the clerk's office receives these documents, they record them in the computer and send a copy to the solicitor's office. The time frame from the point of arrest to the receipt in the solicitor's office of paperwork can span from a week to a month, depending on how quickly the documents are transmitted.

Once the solicitor's office receives the case from the clerk's office, clerical staff enter the case into the computer. This can take an additional one to two weeks, depending on the volume of cases to be entered. The case is then sent to the office's Victim's Assistance desk to send an impact statement to the victim. The case is next sent for filing, in which the merits of the case are first reviewed by a senior solicitor and one of three actions is taken: the case dismissed; the defendant is referred to PTI; or the case is assigned to an assistant solicitor for prosecution. At this initial review, approximately 10 percent of the cases are dismissed, and another 25 percent are referred to the Pretrial Intervention program. The total elapsed time between the point of arrest and assignment of a case to a solicitor averages six to eight weeks. If the defense attorney is ready to discuss a plea before the case is assigned, a senior solicitor will expedite the assignment to allow for an earlier resolution.

The solicitor's office estimates they get the case before a grand jury within 90 days of arrest. A preliminary hearing is often held after the indictment, usually as a mechanism to provide defense counsel with discovery information. Once a defendant is indicted, the solicitor's office schedules the case when it is ready to proceed.

To assist the solicitor in keeping track of detained general sessions court cases, the jail provides a list of inmates being held. Information on the list is sometimes out of date, however, limiting its

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<sup>15</sup> Seven magistrates are assigned to magistrate's court.

value -- a problem that may be rectified once a new integrated computer system has been completed.

One mechanism used by the system to move cases along is the transfer court, where a circuit court judge approves a defendant's request to transfer a case from the general sessions court to the magistrates court, so that the case can be heard right away by the magistrate. Since magistrates cannot impose sentences of more than 30 days in jail and cannot order probation, a typical sentence in transfer court is a fine and/or time served. The solicitor's office assigns one assistant to this court.

It was estimated that at any given time there are six to ten persons in the jail awaiting probation or parole hearings.

Site officials are working to integrate individual agency's computer systems to reduce data entry duplications and make case information more readily available. Through a grant from the state, officials are implementing the Lexington Unified Court Automation System (LUCAS). To date, the magistrates office, general sessions division of the clerk's office, and the solicitor's office are being linked to the unified system in the first phase of implementation. The jail is scheduled to be included in the next phase. Officials expect that this system will allow case information to reach the solicitor's office much quicker. The whole system is expected to be completed in two years.

The sheriff is attempting to have appointed a full-time criminal justice coordinator, perhaps lodged under the county administrator's office, who would be responsible for keeping all system actors working together to expedite the movement of pretrial cases through the jail. The sheriff envisions that a major task of the coordinator would be to conduct constant reviews of the jail population to target defendants held on low bonds or who have been held as long as they would likely serve if convicted.

Lexington County officials are also planning for the implementation of a drug court. The court will target defendants charged with drug offenses who have no prior record of violent charges. It is expected that up to 150 defendants will participate in the drug court program at any given time.

### ***Lancaster County***

The population of Lancaster County stood at 54, 516 on April 1, 1990, a two percent increase from a decade earlier. It is the 21st largest county in the state in terms of its population, and is the 30th largest in land area. Its crime rate ranks 20th in the state, and it ranks 18th in the number of inmates sent to the state Department of Corrections.<sup>16</sup>

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<sup>16</sup> *Supra* note 11.

The jail is operated by the Sheriff's Department and run by a jail administrator who reports to the Sheriff. The jail is significantly overcrowded. With a rated capacity of 32 inmates,<sup>17</sup> the average daily population for the first six months of 1996 was 102.8. The population is made up of approximately 60 percent unsentenced and 40 percent sentenced inmates. Unlike the facilities in Spartanburg and Lexington Counties, no federal inmates are housed in this jail.

The county has solicited bids for a \$1.8 million expansion of the jail facility that would bring its rated capacity to somewhere between 95 and 108. It is expected that the process of selecting a contractor and completing construction will take approximately 18 to 20 months.

Magistrates set bond for new arrestees at the jail at 7:00AM and 8:00PM seven days a week.<sup>18</sup> It typically takes ten to 15 days for the clerk's office to receive the transmittal of the charging documents from the magistrates. Once the clerk's office has these documents, it takes about two days to enter the information into the computer and have the file ready for the solicitor. Once several files are ready, a representative from the solicitor's office -- which is located in an adjacent county -- picks up the files at the clerk's office.<sup>19</sup> An average of two to three weeks passes from the point of arrest until the solicitor's office receives the file on the case.

A term of general sessions court lasting two to three weeks is held every other month in Lancaster County. The solicitor's office typically does not begin to review cases until one week before the start of a new term. The first week of a term of court usually is dedicated to accepting guilty pleas and the remaining weeks focus mostly on trials. Plea negotiations and bond reductions are usually not addressed until after the case has been reviewed by the solicitor unless a defense attorney actively pursues such matters earlier. This occurs infrequently since one public defender handles all indigent cases in Lancaster County, in addition to serving two other counties.

Each day during the term of court, the solicitor's office receives from the jail a list of all pretrial defendants detained in the jail, their charges, and how long they have been detained. The solicitor's office attempts to give priority to the cases of defendants who have been detained the longest.

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<sup>17</sup> For many years, the jail had a rated capacity of 68 inmates. During a regular visit by Department of Corrections' inspectors several years ago, it was discovered that initial assumptions used to set that capacity were mistaken, and the department officially reduced the jail's capacity to 32.

<sup>18</sup> There are five magistrates in Lancaster County.

<sup>19</sup> The solicitor's office in this judicial circuit encompasses three counties. The office has five attorneys, including the elected solicitor.

According to an assistant solicitor, ten years ago the average time between indictment and disposition was "about 60 days;" currently it is one year. This is for defendants who are either in-custody and out-of-custody.

It was estimated that five percent of the jail population is comprised of persons awaiting resolution of probation or parole violations.

### *McCormick County*

McCormick County, which borders on the Georgia state line, is one of the most rural counties in the state. It has the smallest population -- 8,868 as of 1990. It is ranked next to last in the number of residents per square mile at 24.7, leaving it well below the state average of 115.8. Its crime rate ranks 39th out of 46 counties, and only one other county sends less inmates to the state Department of Corrections.<sup>20</sup>

The capacity of the county jail, which falls under the jurisdiction of the Sheriff's Department, is rated by the state as 14 inmates, but there are 28 beds in the facility. It has been averaging a population of 15 inmates in recent months, and has been as high as 42. Of the 12 inmates who were incarcerated on June 19, 1996, four had cases pending in general sessions court, two were awaiting hearings for probation or parole violations, four were serving contempt sentences from the family court for failure to pay child support, and two were serving magistrate court sentences.

Three law enforcement agencies operate in the county. Persons arrested are brought before one of two magistrates who hold bond hearings at 10A.M each weekday morning and later in the day if needed, and 10A.M. and 6P.M. on weekends.

Since it is a small county, many of the arrestees appearing in court are known to the magistrates. However, since the county borders Georgia and a new resort area opened recently in the western part of the county, many out-of-state residents appear in court after an arrest -- usually for minor offenses. Typically, magistrates set bail in these cases in the amount that the fine for the charge would be.

A majority of defendants facing magistrate court cases enter a plea at the first appearance after the bond hearing. This hearing usually takes place within two weeks of the arrest. Sentencing typically takes place immediately.

For general sessions court cases, only two to three two-week terms of general sessions court are scheduled for the county each year. A magistrate conducts a preliminary hearing in these cases about a month before the next scheduled term of general sessions court.

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<sup>20</sup> *Supra* note 11.

One part-time public defender covers McCormick plus two other counties and handles about 600 cases per year.

Plea negotiations typically begin one week before the start of the general sessions term. Little effort is made to start them any earlier since no judge would be available to take the pleas. There are some occasions, however, where a plea is worked out between the solicitor and public defender and the defendant is brought to another county in the same judicial district where a circuit court judge can accept the plea and sentence the defendant. In many instances, though, defendants will wait for months after deciding to plead guilty -- knowing that they would likely be sentenced to the time they had already served -- before they can get before a circuit court judge.

The rural location of this county also affects the time it takes to address probation or parole violations. It usually takes three to four weeks after a violation has been noted (either through an arrest or citation) before the probation or parole official arrives to conduct the administrative hearing. It then takes an average of three to four weeks to get the case before a circuit court judge for probationers, and can take much longer to get before the parole board.

## **B. Statistical Information on Case Processing**

The following information on the processing of cases in magistrates and general sessions court is from *Statistical Summary: 1995*, compiled by the South Carolina Court Administration.

- Statewide, the number of filings in magistrates court rose eight percent between 1990 and 1995.
- The number of filings in general sessions court rose 7.8 percent over the same period.
- Even though the general sessions court statewide has been relatively successful in keeping pace with new filings in recent years, the court is maintaining a backlog. (See Table I)
- As for the individual counties, Spartanburg County reduced its backlog of general sessions court cases in 1995 by 26 percent; Lexington County increased its backlog by 10 percent, Lancaster County by 35 percent, and McCormick County by four percent. (See Table II)
- There has been a 33 percent increase in the number of terms of general sessions court statewide between 1990 and 1995, suggesting that additional circuit court resources have been required to keep pace. (See Table III)
- The backlog of civil cases pending in common pleas court rose 21 percent between 1990 and 1995 while civil filings fell 20 percent over the same period, suggesting that circuit court judicial resources are being diverted to general sessions court -- at the expense of slower civil case processing.
- In a snapshot taken on December 31, 1995, one-half of all cases pending in the general sessions court throughout the state were more than six months old, and

the average age of a case was 265.7 days.

- In the same snapshot, Spartanburg County cases were not as old as the state average; Lexington County matched that average, and Lancaster and McCormick County were older than average.
- Nearly six in ten general sessions court cases were *nolled* by solicitors in Lancaster County; between 34 and 38 percent were *nolled* in the other three counties. (See Table V)
- At least 97 percent of all convictions obtained in all four counties resulted from guilty pleas. (See Table VI)
- An average of 5.3 percent of cases disposed of statewide in 1995 were dismissed upon successful completion of Pretrial Intervention. (See Table VII)

**Table I**  
**Movement of Cases in General Sessions Court**  
**Statewide**

Year	Filings	Dispositions	Pending at Year End
1990	101,461	91,633	48,756
1991	109,580	97,132	62,419
1992	113,289	109,514	67,452
1993	114,501	118,063	65,478
1994	102,829	106,873	63,955
1995	109,419	108,222	66,833

**Table II**  
**General Sessions Court Caseload**

	Pending 1/1/95	Added During 1995	Disposed During 1995	Pending 12/31/95
Spartanburg	4,651	8,554	9,502	3,703
Lexington	2,970	4,894	4,593	3,271
Lancaster	957	2,025	1,687	1,295
McCormick	176	352	345	183
<b>Statewide</b>	<b>65,636</b>	<b>109,419</b>	<b>108,222</b>	<b>66,833</b>

**Table III**  
**General Sessions Terms Held**  
**Statewide**

Year	Terms Held
1990	615
1991	693
1992	731
1993	784
1994	785
1995	816

**Table IV**  
**Age of General Sessions Court Cases Pending 12/31/95**

	0-90 Days	91-180 Days	Total < 6 Mos	181-270 Days	271-365 Days	> 1 Year
Spartanburg	36%	27%	63%	15%	9%	12%
Lexington	28%	22%	50%	18%	9%	23%
Lancaster	24%	16%	41%	16%	16%	27%
McCormick	27%	15%	42%	10%	18%	30%
<b>Statewide</b>	<b>27%</b>	<b>23%</b>	<b>50%</b>	<b>16%</b>	<b>12%</b>	<b>23%</b>

**Table V**  
**Cases Nolled 1995**

	Percentage
Spartanburg	35%
Lexington	38%
Lancaster	59%
McCormick	34%
<b>Statewide</b>	<b>36%</b>

**Table VI**  
**Method of Conviction**

	Guilty Plea	Guilty at Trial
Spartanburg	98.8%	1.2%
Lexington	97%	3%
Lancaster	99.3%	.7%
McCormick	97%	3%
<b>Statewide</b>	<b>97.8%</b>	<b>2.2%</b>

**Table VII**  
**Percent of All Disposed Cases**  
**That Successfully Completed**  
**Pretrial Intervention**

Spartanburg	3.4%
Lexington	11.8%
Lancaster	2.3%
McCormick	9%
<b>Statewide</b>	<b>5.3%</b>

The data presented in this section generally are consistent with statements made in interviews, specifically that the number of cases coming into the system is rising, that many cases remain in the system for a long period of time, and that a backlog of cases exists in general sessions court.

## **IV. FINDINGS AND RECOMMENDATIONS**

Several caveats must be kept in mind in considering the findings and recommendations of this report. First, since the case processing data from the Court Administration does not differentiate between those who are in custody and those who have been released awaiting trial, that data cannot show the extent to which the pace of case processing in general sessions court affects crowding. Additionally, this problem cannot be approached from another angle by examining length of stay data from the jail since none of the four county's jails distinguish between pretrial and sentenced populations in calculating length of stay. Furthermore, there is very little data from the magistrates courts or from the jails that would show the impact on the jail population of magistrate court cases.

### **A. Findings Common Across the Sites**

Despite a 73 percent increase in jail capacity during this decade, the jails in South Carolina are still crowded. Several factors were identified in interviews as causes of this increase, particularly stronger enforcement of domestic violence and drunk driving offenses and of failure to pay child support.

Whenever policy decisions are made that increase the number of people going to jail -- for example, imposing stricter sanctions in domestic violence, drunk driving, and failure to pay child support cases -- adjustments must be made or the jail population will rise. Criminal case processing is one area where such adjustments can be made, and our analysis of case processing times in the four South Carolina counties suggests there is room for improvement.

Since much of the case processing data available from Court Administration were obtained using the "snapshot" method -- that is, examining all cases still pending on a particular date -- information is not available on the average age of a case at disposition, which would be much longer than the snapshot figures suggest. An accurate measure of case processing times would require examining cases filed during a specified period and following them through to the date of final disposition.<sup>21</sup>

This makes it difficult to compare South Carolina case processing times with times in other jurisdictions. However, it is known that the median time between arrest and final disposition of felony defendants in 75 of the largest counties in the country in 1992, the last year for which these figures are available, was 83 days. Fifty-three percent of these cases were disposed of within the first 90 days, 74 percent within six months, and 90 percent within one

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<sup>21</sup> Currently, Court Administration does not have the capacity to collect and report data on the duration of cases from arrest to final disposition, instead relying on the snapshot method. The office currently seeking to install new software that will allow this data to be collected.

year.<sup>22</sup> As noted earlier, the average age of a case on the last day of 1995 in South Carolina was 265.7 days, suggesting that case processing times in South Carolina are substantially longer than the national average.<sup>23</sup>

While the focus of this report is on improving the pace of case processing as means to relieve jail crowding, there are several other benefits to expeditious case processing. For example, the number of released defendants reporting for Roll Call in each of the counties can be so large because of the size of the pending caseload that existing courtroom facilities cannot accommodate the crowd. In addition, when defendants who are out-of-custody are forced to wait long periods until disposition, there is increased likelihood of being rearrested on a new charge pending disposition and of failing to appear in court when the case does finally come up. Finally, and most importantly, lengthy processing times diminish the respect of victims, witnesses, and the general public for the administration of justice.

There is a development in the state that makes a focus on case processing even more timely. The South Carolina legislature has passed and the voters ratified a "Victims' Bill of Rights" amendment to the state constitution. The amendment specifies that victims or their survivors have a right to be informed of and be present at any proceeding in which pretrial release, adjudication, or sentencing of the defendant is to occur. Victims also have a right to be notified when the defendant has been arrested, released, or has escaped. This amendment could place a greater burden on solicitors and the courts, and could result in even slower case processing.

Greater efficiencies can be achieved in case processing that can address existing problems and meet such future challenges as the passage of the Victims' Bill of Rights. A great deal of research has been conducted nationally to identify elements that are common to systems that move cases expeditiously. Ten such elements have been identified by the National Center for State Courts,<sup>24</sup> including:

- *Leadership*: There exists strong leadership from an official who has clear responsibility and authority for case management.

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<sup>22</sup> Brian A. Reaves and Pheny Z. Smith, *National Pretrial Reporting Program: Felony Defendants in Large Urban Counties, 1992*, U.S. Department of Justice, Bureau of Justice Statistics, July 1995, p. 25.

<sup>23</sup> Using data from the National Pretrial Reporting Program (NPRP) to make such comparisons must be done with caution, however, since this data set is more significant for its range than its average and since only large jurisdictions -- the smallest of which is larger than the largest county in South Carolina -- were included for participation in NPRP.

<sup>24</sup> Barry Mahoney, et. al., *How to Conduct a Caseflow Management Review: A Guide for Practitioners*, National Center for State Courts, 1994.

- *Goals:* While judges, prosecutors, and defense attorneys share the common goals of providing justice and due process, they also embrace the goal of timely disposition of cases through the use of time standards.
- *Information:* Timely and accurate information is available for case-level decision making as well as system management.
- *Communication:* The court, prosecution, and defense communicate regularly regarding needs and priorities.
- *Caseflow Management Policies and Procedures:* While different procedures may exist among successful courts to implement caseflow management, they each stress such important factors as early court control, case differentiation, early discovery and negotiation, and assurance that trials will be held as scheduled.
- *Judicial Commitment:* The entire criminal court bench is committed to minimizing delays.
- *Staff Involvement:* Staff at all levels are involved in developing caseload management and delay reduction strategies.
- *Education and Training:* Periodic seminars are held on effective caseflow management techniques for judges, prosecutors, defenders, and staff.
- *Mechanisms for Accountability:* Clear roles and lines of authority exist to assure that case management goals are met.
- *Backlog Reduction/Inventory Control:* Strategies are in place to reduce the number of old cases.

One court that has long been identified by the National Center for State Courts as achieving expedited case processing through encompassing these ten elements is Fairfax County, Virginia, which is the largest judicial circuit in the state.<sup>25</sup> The latest results of this court's case processing efforts provides further evidence of the benefits to be derived from incorporating these elements. Between 1994 and 1995, there was a 22 percent increase in the number of criminal cases filed in that county. Despite this increase, the court last year disposed of 96 percent of felony cases within the first 120 days,<sup>26</sup> a mark that even surpasses the disposition time standards of the American Bar Association.<sup>27</sup>

Another "successful" court identified by the National Center is the Recorder's Court in Detroit,

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<sup>25</sup> William E. Hewitt, et. al., *Courts That Succeed: Six Profiles of Successful Courts* (Williamsburg, Va: National Center for State Courts, 1990)

<sup>26</sup> *The Washington Times*, July 22, 1996.

<sup>27</sup> The ABA standards call for 90 percent of felony cases to be concluded within 120 days, 98 percent in 180 days, and 100 percent in one year. In addition, the National District Attorneys Association calls for all felony cases involving in-custody defendants to reach disposition within 75 days.

Michigan. This court, which until a recent consolidation handled all criminal matters from the city of Detroit, suffered a backlog problem far worse than that experienced in South Carolina counties. Between 1974 and 1976, the backlog of cases pending at the end of each year rose from 1,805 to 6,331. During this same period, the pretrial detainee population at the jail rose from 622 to 1,073. With an infusion of temporary resources, the court instituted a backlog and delay reduction program. With strong leadership, firm goals, clear procedures, and mechanisms for measuring accountability, by the end of 1978 the backlog had been reduced to 1,204 cases and the pretrial detainee population in jail was cut to 580. In addition, once the backlog problem was addressed, the court was able to maintain its expeditious handling of cases.<sup>28</sup>

Many of the ten common elements of expeditious courts are not featured in the four South Carolina counties examined for this report. For example, there appears to be no one individual within any of the counties who is responsible for caseload management who could then exercise the leadership required for expedited case processing. There appear to be no clearly articulated goals regarding timely dispositions that the key actors have embraced and work in unison toward. There is little opportunity for judicial commitment to reducing delays since solicitors, rather than the court, control the calendars.

This last example points to an issue about which there are two schools of thought: Can solicitors take the lead in caseload management or are they inherently wrongly cast to do so given their overriding responsibility to prepare a case for prosecution? On the one hand, there are many jurisdictions, particularly in non-urban areas, where prosecutors do control the calendars.<sup>29</sup> In fact, the National District Attorneys Association, in its National Prosecution Standards, recommends that prosecutors determine the date and order that cases should be heard. Its rationale for this position is that prosecutors are in the best position to know of the availability of victims and witnesses, and the status of evidence.<sup>30</sup>

On the other hand, in all of the courts identified by the National Center for State Courts as successfully instituting caseload management, the court had the responsibility for scheduling cases. Indeed, based upon its research, the National Center has concluded that "caseload management is fundamentally the responsibility of the court. Management of the caseload is not something that can be left to lawyers or other institutions."<sup>31</sup> The American Bar Association, in

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<sup>28</sup> Barry Mahoney, et.al., *Changing Times in Trial Courts*, National Center for State Courts, 1988, pp. 135-141.

<sup>29</sup> Kathryn Fahnestock and Maurice D. Geiger, *Time To Justice: Caseload in Rural General Jurisdiction Courts*; Rural Justice Center, March 1990.

<sup>30</sup> National District Attorneys Association, *National Prosecution Standards: Second Edition*, Standard 61.1 and accompanying Commentary, 1990.

<sup>31</sup> *Ibid.*, p. 1.

its Criminal Justice Standards, has come to the same conclusion.<sup>32</sup>

There are examples of non-urban jurisdictions that in recent years have switched or are switching from prosecutor to court control over the calendar as a step in implementing more effective case management. Pierce County, Washington, did so in 1988, with felony drug cases given particular attention for expedited case processing. In the first four months after the new case management system was employed, 88 percent of felony drug cases were resolved within 90 days. In the same four month period the preceding year, only 11 percent of these cases were completed in 90 days. In later describing why this switch was necessary, a Pierce County superior court judge noted that “[i]n the old days when the numbers and seriousness of cases were not so great, the system seemed to manage itself. It is abundantly clear, however, that as the numbers increase and resources decrease, case management is necessary in order for the court to manage at all.”<sup>33</sup>

Officials in Anne Arrundel County, Maryland, are currently in the process of transferring scheduling authority from the prosecutor to the court. The court administrator in that jurisdiction voiced the same sentiment as the judge in Pierce County, Washington -- that with the growth of the county in recent years, it is no longer practical or efficient for the court not to have control over the scheduling of cases.<sup>34</sup>

Raising the issue of control of the calendar in this report in no way implies a conclusion that solicitors in the four counties have done a poor job of case management. Indeed, it was clear from the interviews that the solicitors are very concerned about the pace of case processing and have taken measures with the resources at their disposal to help improve it -- particularly for jail cases. Still, the experiences of other jurisdictions that have had great success in expediting case processing and reducing backlogs through a system in which the court controls the calendar is

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<sup>32</sup> American Bar Association, *Standards Relating to the Function of the Trial Judge*, Standard 3.8 Responsibility of the Criminal Docket, Approved Draft, 1972.

<sup>33</sup> J. Kelley Arnold, “Transferring Criminal Case Management Functions from the Prosecutor to the Court,” *The Judge’s Journal*, Winter 1994, pp. 5-6. In describing how the concerns of prosecutors and defense attorneys regarding this transition were addressed, Judge Arnold wrote: “The logic of case management, when examined in a rational manner, convinced the prosecuting attorney and public defender that the efficiency that could result from the [new case management] program would reduce their respective caseloads. It didn’t take long for public attorneys to realize that their caseloads corresponded to the life of their cases. The sooner the case was resolved, the sooner it was no longer on their caseloads. This decimates the argument that there is no time for screening cases early on.”

<sup>34</sup> Telephone conversation with Robert Wallace, Court Administrator, Anne Arrundel County Circuit Court, 9/12/96.

instructive. With South Carolina officials responding to public concerns about such problems as domestic violence, drunk driving, and failure to pay child support in ways that increase the use of the jails, coupled with the added burdens to be felt by solicitors with the passage of the Victims' Bill of Rights, this may be the proper time to examine whether the court is better suited to control of the calendar.

Another issue to be addressed is the inadequacy of existing data for use in monitoring case processing. As noted, much of the data gathered by Court Administration is limited in that it does not measure time from arrest to disposition. Jail data are also limited. Both Spartanburg and Lexington Counties have the capacity, through their automated jail booking systems, to calculate the average length of stay for inmates by charge. Neither, however, can distinguish between pretrial and sentenced inmates and neither can capture when a pretrial detainee begins to serve a sentence. Lancaster and McCormick County jails have no automated systems, and do not routinely collect this data manually. This makes it difficult to determine how long pretrial detainees are remaining in jail and on what bond amount.

Finally, one other purpose of the interviews with key system officials was to solicit their views on the potential value and feasibility of implementing a pretrial screening and supervision function within each of the counties. With such a function, magistrates would be provided with detailed and verified background information about arrestees, including their address and employment status, and complete criminal histories for use at the bail-setting hearing. With the supervision provided by such a function, magistrates would also have options between simple release on recognizance and setting financial bail.

There was consensus among those interviewed that such a function would be extremely helpful in their counties and were very supportive. Many felt that electronic monitoring would be an effective tool of pretrial supervision. One county administrative official noted that funding pretrial screening and supervision function would be "some of the best money we could spend."

## **B. Recommendations Common Across the Sites**

There are many dedicated and talented officials in each of the four counties who have worked hard to address issues that arise, including jail crowding. Notwithstanding these efforts, from our visits to the sites and review of available data, we can conclude that many people are being detained in the four county jails for longer periods than are necessary due to both the pace of case processing and the limited amount of information and options that are available to bail-setting magistrates. More efficient use of jail space can be achieved through two avenues:

- Decisions about the status and disposition of cases can and should be made earlier; and
- Pretrial release decisions can and should be made with more complete and timely information available to magistrates.

Such actions as early screening of cases by prosecutors, prompt intervention by defense, and early plea discussions have been shown to be effective in expediting the disposition of cases that will not proceed to trial.<sup>35</sup> Currently, as noted, magistrates might not transmit a warrant to the clerk's office for up to ten days, and the first review of a case by a solicitor might not occur until two months after arrest. In fact, it is not unusual for a defendant to make the first appearance in general sessions court -- at the solicitor's Roll Call -- before the solicitor's office has even received notification of the arrest. Given the high percentage of cases that end in nolles, guilty pleas, or dismissals upon completion of Pretrial Intervention, collapsing these time periods substantially beginning with much earlier review of cases can have a significant impact on case processing times.

Likewise, the availability of information and options to the bail-setting official can have a significant impact on that official's confidence in granting pretrial release to a larger number of defendants.

The recommendations that follow flow from these two conclusions.

**1. Time standards for the processing of cases should be developed, with an official or officials designated as being responsible for assuring compliance with those standards.**

These standards might be broken down into the following categories:

- in custody cases that present complex issues (i.e., capital offenses, multiple witnesses, complicated evidence);
- in custody cases that present routine issues;
- non-custody cases that present complex issues;
- non-custody cases that present routine issues.

Designations as complex or routine cases should be made by solicitors after an initial screening of a case.

The time standards should set goals for disposing of specified percentages of each category of cases within certain timeframes. For example, the standards might set as a goal that 50 percent of in-custody cases with routine issues be disposed of within one month of arrest, and 90 percent within three months. Responsibility for assuring compliance with these standards should rest with the authority that has control over the scheduling of cases.

As noted, the American Bar Association and the National Center for State Courts have concluded that control of case scheduling in criminal cases should be in the hands of the court, not prosecutors. Making such a transition would no doubt be difficult, but it is suggested that this

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<sup>35</sup> Andy Hall, et. al., *Alleviating Jail Crowding: A Systems Perspective*; National Institute of Justice, U.S. Department of Justice, 1985.

issue be discussed at both the state and local levels. Perhaps a pilot effort could be set up in one or more counties to test the impact of having the court control the calendar.

If ultimately such a transfer of scheduling authority is not feasible or desirable, there are steps that can be taken by solicitor's offices to assure compliance with whatever time standards are developed. The remaining recommendations that pertain to case processing should lead to improvements in case processing times regardless of whether the solicitor or the court controls the calendar.

**2. Each county should develop a management information system capable of monitoring adherence to the case processing time standards.**

Having time standards for case processing would be useless if there were not the means to monitor compliance with those standards. The counties should assure that an information system is in place capable of generating on a regular basis a report that would be used as a tool for case management. This report would be a list of all pending cases organized by:

- defendant identifiers (defendant's name, date of birth);
- case identifiers (charges, date of arrest, nature, date, and result of last court hearing, nature and date of next court hearing);
- category (routine or complex);
- case status (awaiting grand jury action, preliminary hearing, trial, sentencing, etc.);
- other system status (other pending cases, on probation or parole);
- custody status; and
- age of case.

Regardless of who controls scheduling of general sessions court cases, this list should be provided to magistrates, judges, solicitors, public defenders, jail staff, and the clerk's office on a regular basis.

**3. The jail information system in each county should be enhanced to ensure that a jail population analysis can be conducted on a regular basis.**

One difficulty that was encountered in each of the counties in this effort to identify the impact of case processing on the jail population was that the jail data were not conducive for that purpose. As noted earlier, while both Lexington and Spartanburg County jails have automated systems that can calculate average length of stay in jail, neither can distinguish between pretrial and sentenced inmates. Lancaster and McCormick County jails use manual systems that do not capture the necessary information.

Jail information should include the following data elements:

- status (i.e., pretrial, awaiting probation or parole violation hearing, sentenced);
- length of stay in that status;
- court or agency involved (i.e., magistrates court, general sessions court, family court, probation or parole);
- charges;
- charge level (felony, misdemeanor, traffic);
- bail amount, if in pretrial status;
- other pending cases, holds, detainers, etc.;
- magistrate, judge, solicitor, and public defender assigned to the case;
- nature and date of last court appearance; and
- nature and date of next court appearance.

A jail list should be provided on a weekly basis to the parties involved in the case. For example, all custody cases assigned to a particular solicitor would be included on a weekly list to that solicitor.

Jail officials should also use this information to provide regular summary reports to key system actors showing the composition of the jail, and length of stay by status and by charge.

**4. The magistrates, clerks' offices, and solicitors should work together to determine how general sessions court cases could be transmitted and ready for review by a solicitor shortly after arrest.**

There are many jurisdictions around the country where a senior prosecutor reviews cases immediately after arrest and makes a judgement at that point whether to proceed with the case. The benefits of doing this in reducing the ultimate size of solicitors' caseloads cannot be overstated. Thus, a shift of resources to an early screening function by solicitors can pay rich dividends for overloaded solicitors. This is especially true given the high percentage of cases that are ultimately nolle, referred to Pretrial Intervention, or pled. Such a shift would require a coordinated effort between magistrates, court clerks, and solicitors to assure that solicitors receive information about the case shortly after arrest.

**5. The public defenders' offices, clerks' offices, and jail officials should work together to expedite the screening of cases for public defender representation and the initial contact of a public defender with a client.**

The size of caseloads carried by public defenders in all four of the counties is a source of concern and contributes to more delay as attorneys cannot prepare for all cases that may be ready to proceed. However, just as early review of a case by a prosecutor is very important, early defender appointment and contact with a client has been shown to be successful in bringing

about early resolution of cases that can easily be resolved without deep penetration into the court system.<sup>36</sup>

**6. Each county should implement a pretrial screening and supervision function to assist judicial officers in making informed pretrial release decisions and providing viable options for the release of higher risk defendants.**

As noted, there was consensus support for such a function in all four counties. Specifics on how such a function should be implemented in each of the counties, including number of staff assigned, duties, sample interview forms and risk assessment instruments, sample training guides, and expected impact likely will vary greatly given the different circumstances in each county. This will be the subject of the next report.

**C. Application of Recommendations in the Individual Counties**

While the findings and recommendations listed above apply to all four counties, none of the counties is exactly alike. Thus, the following discussion focuses on how these recommendations apply to each of the individual counties.

***Spartanburg County***

- **Development of time standards**

Key actors in the county's criminal justice system have demonstrated through their participation in the criminal justice committee the importance of cooperation with other system actors. The discussions regarding the implementation of a transfer court in Spartanburg County and looking for additional holding room space in the courthouse to more quickly resolve the cases of detained defendants are just two examples of how officials are working together, and the committee should continue to work toward implementing these two initiatives. It is likely through efforts like these that the county was able to reduce its backlog of cases by 26 percent in 1995. Officials should use the criminal justice committee as the vehicle for discussing the development of time standards and for designating the official or officials responsible for monitoring compliance with the time standards.

- **Development of information system to monitor compliance with the standards**

The county is fortunate in having a management information system office that can work to meet the information processing needs of all county government agencies. This office should continue its involvement with the criminal justice committee and should assure that the data elements that

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<sup>36</sup> *Ibid.*

relate to the time standards, listed under Recommendation 2 above, can be captured and reported by the county's information system. The management information system office should also proceed with its plans to try to integrate the automated information systems of the various criminal justice agencies. In doing so, however, the office should work with the criminal justice committee to assure that changes made in case processing as a result of this report are incorporated into the integrated system. For example, if a decision was made to transmit warrants from magistrates to the clerk's office via computer as one means of expediting case processing, the information system would have to support that function.

- **Enhancement of jail information system**

The jail's computerized booking system allows the jail to track admissions and length of stay. Data from this system was made available for the preparation of this report but could not be used because it could not distinguish between pretrial and sentenced inmates. The county's management information system office should work with jail officials to assure that the information collected from the jail include the data elements listed in Recommendation 3 above.

- **Early transmittal of warrants and early case review by solicitors**

The magistrates court, circuit court, clerk's office, and solicitor's office are all located on the same block in Spartanburg County. The jail, from which magistrates set bond on weekends and overnight, is about one mile away. This proximity of key actors should simplify efforts to have an early review of a case by a solicitor.

- **Early involvement of the public defender**

The public defenders office is located one block from the courthouse and a mile from the jail. While public defenders are carrying heavy caseloads in Spartanburg County, which was noted as one reason why there is a delay in the initial contact with the defendant, earlier involvement of the public defender, coupled with earlier review by the solicitor, should ultimately result in reducing the size of the caseload.

Spartanburg County, along with Lexington County, has more terms of general sessions court than Lancaster County and especially McCormick County. This provides an opportunity that does not exist in all other South Carolina counties for both solicitors and public defenders to bring cases that have been worked out through much earlier intervention immediately before a circuit court judge.

- **Implementing pretrial screening and supervision**

The county has the benefit of having a new, state-of-the-art jail facility. The physical lay-out of the new jail's booking area was designed to make it conducive to gathering information quickly on arrestees and preparing them for the bail-setting appearance before the magistrate. It is used

effectively for this purpose, and it creates an ideal setting for a later implementation of a pretrial screening function.

### *Lexington County*

- **Development of time standards**

In Lexington County, dedicated officials are working hard to address problems that arise. While key system actors are concerned about the population problems at the jail and have done what they felt they could to address them, i.e., solicitors and public defenders try to give priority to custody cases, there is little evidence that these actors are working together in a coordinated fashion. County officials should form a committee of key actors, similar to that which exists in Spartanburg County, to develop the case processing time standards and identify the party or parties who would be responsible for overseeing compliance with those standards.

- **Develop information system to monitor compliance with case processing time standards**

Lexington County officials are fortunate in having already begun work in integrating various information systems of key actors. Officials should assure that the Lexington County Unified Court Automation System incorporates the data elements listed in Recommendation 2 so that compliance with time standards can be monitored.

- **Enhancement of jail information system**

As in Spartanburg County, much data on the jail population exists, but these data do not distinguish between pretrial and sentenced populations, making it difficult at this point to assess the potential impact of various strategies. Jail officials should modify the existing information system so that it incorporates the data elements listed in Recommendation 3, and should work with the officials that are designing LUCAS to assure that this information is available to all system actors.

- **Early transmittal of warrants and early case review by solicitors**

Since approximately ten percent of cases are dismissed and 25 percent referred to PTI by the solicitor upon initial screening, and considering that it can take up to eight weeks before that screening takes place, the benefits of an earlier review are clear. The solicitor's office should reallocate the resources necessary to conduct an earlier review, and should work with magistrates and the clerk's office to assure that cases are ready to be screened at an early point after arrest.

- **Early involvement of the public defender**

With an active transfer court in Lexington County, an earlier involvement of the public defender,

coupled with an earlier screening by the solicitor, an opportunity would exist to provide an additional benefit of allowing general sessions cases to be transferred to be heard by a magistrate at a much earlier date.

The number of general sessions court terms scheduled for Lexington County, as compared with smaller counties in the state, also provides an opportunity for both solicitors and public defenders to bring matters in which early plea agreements have been reached as a result of earlier intervention before a circuit court judge.

- **Implementing pretrial screening and supervision**

Since it was reported that 80 to 85 percent of the population is comprised of pretrial detainees, and data show that many of these inmates stay in jail for long periods of time, it is likely that Lexington County would greatly benefit from a pretrial screening and supervision function.

### *Lancaster County*

- **Developing time standards**

Of the four counties studied, Lancaster County had the highest percentage increase in its backlog of general sessions court cases between 1994 and 1995, rising 35 percent. The county also has the most severely overcrowded jail of the four. As such, it may be the most in need of establishing time standards for case processing. County officials should establish a committee to develop those standards and identify the party or parties who would be responsible for maintaining compliance with the standards.

- **Develop information system to monitor compliance with case processing time standards**

Case information in the clerk's office is automated. That information system should be enhanced to incorporate the data elements listed in Recommendation 2.

- **Enhancement of jail information system**

The current jail information system is manual. Jail officials should explore the possibility of implementing a PC-based automated information system that would be capable of incorporating the data elements listed in Recommendation 3.

- **Early transmittal of warrants and early case reviews by solicitors**

One statistic from the Court Administration's annual report really stands out. In Lancaster County, 59 percent of general sessions court cases end in a *nolle* by the solicitor's office. This is substantially above the statewide average of 36 percent. While Court Administration data do not

reveal the timing of these *nolle* decisions, from interviews with officials in Lancaster County it is known that solicitors do not even screen the case for the first time until shortly before the next term of general sessions court.

The solicitor's office's rationale for waiting until this point for the initial screening -- that little is likely to happen to a case before the next term of court -- seems to be countered by the high *nolle* rate. Perhaps more so than any of the other three counties, Lancaster County should benefit from a much earlier review of a case. Doing so would require not only a reallocation of resources by the solicitor's office, but also cooperation by the magistrates and clerk's office to have cases ready for a review at a much earlier date.

- **Early involvement of the public defender**

Since only one public defender is responsible for covering all of Lancaster County -- in addition to two other counties -- it is difficult to talk in terms of reallocating resources to allow for an earlier review. The incentive to do so may exist, but the opportunity may not. However, with the development of time standards and the commitment of the court and solicitor's office to meeting these standards, the public defender would have both the incentive and opportunity to readjust scheduling priorities to allow for early intervention in all new cases.

- **Implementing pretrial screening and supervision**

Even assuming that officials are able to implement procedures allowing for much earlier review of cases by solicitors and public defenders, given the infrequency of terms of general sessions court (one two to three week term every other month), it is likely that many defendants would remain in custody while awaiting the next term who could be released if more information and options existed. This issue will be explored in much more detail in the next report.

### **McCormick County**

- **Developing time standards**

As one of the most rural counties in the state, McCormick County officials must confront a different set of problems than those facing the other three counties. Chief among them is that while the volume of cases is only a fraction of that in the other counties, McCormick County's access to general sessions court is extremely limited. With only two or three terms of general sessions court per year, it is easy to see how many defendants will wait in jail for months even after they have decided to plead guilty to the charges against them. This special problem must be taken into consideration in the development of time standards. For example, it should not be considered inappropriate if the standards allow more time for case disposition in McCormick County than the standards developed in Spartanburg and Lexington Counties. County officials should meet to discuss appropriate standards given these special circumstances.

A longer term solution to the county's limited access to general sessions court could involve greater use of technologies. For example, officials report that currently if a case is ready for disposition, needing only action by a circuit court judge, the defendant is sometimes transported to another county where general sessions court is being held to have the matter resolved. Establishing video link-ups between counties may be one means to allow a circuit judge to hear the matter without all parties having to travel long distances to a circuit judge.

- **Develop information system to monitor compliance with case processing time standards**

Given the small number of general sessions court cases filed in McCormick County -- 352 in 1995 -- a manual information system should be capable of monitoring compliance with time standards.

- **Enhancement of jail information system**

Given the small number of inmates housed in the county jail, the jail's current manual information system could easily be modified to incorporate the data elements listed in Recommendation 3.

- **Early transmittal of warrants and early case review by solicitors, and**
- **Early involvement of public defender**

The extreme infrequency of terms of general sessions court -- two to three times a year -- should provide substantial incentive for reviewing cases as early after arrest as possible to weed out through nolle, pleas, and referrals to PTI at a very early point cases that ultimately head in those directions anyway.

- **Implementing pretrial screening and supervision**

One characteristic of rural criminal justice systems is that since the community is so small all the actors in the system tend to know the people coming into the system, their histories and their problems. This allows these officials to deal with these individuals on a more personal level than can be accomplished in larger jurisdictions, where there is a greater need to gather information on new arrestees. Still, this does not obviate the need to have mechanisms in place to provide more information and options in those instances where they are needed. The next report will discuss the level of resources that would probably be needed in McCormick County to provide these services.

## V. CONCLUSION

South Carolina cases take significantly longer to process than the national average. As a result of a backlog caused by slow processing, solicitors and public defenders are carrying caseloads well in excess of what they can reasonably handle -- causing concerns about the quality of justice. More circuit court judicial resources have been allocated, but this has not cut the backlog. Judges are frustrated by this backlog of general sessions court cases and their inability to exert any control over it. Jail officials are complaining that inmates are staying much longer than necessary because of slow movement of cases -- crowding the jails. County officials are frustrated over the growing costs for the operation of the jails.

The recommendations listed in this report represent strategies addressing backlog and delay reduction that have been shown to work elsewhere. Their implementation in the South Carolina counties, while no doubt difficult to bring about, should result in a reduction in case processing times, and a corresponding reduction in the pretrial detainee population. The next phase of this project, on implementing a pretrial screening and supervision function, should provide additional direction in better managing the pretrial detainee population.

**APPENDIX**  
**List of Persons Interviewed**

**Spartanburg County**

Larry Powers, Jail Director  
Joe Petty, Magistrate Court Administrator and former Chief Judge of Magistrates Court  
Charlie Sanders, Public Defender  
Mike Bartosh, Assistant Public Defender  
Johnny Dyer, Solicitor's Office  
Anna Cash, Director of Pretrial Intervention

**Lexington County**

James R. Metts, Sheriff  
Colonel L. J. Reynolds, Director of Support Services, Lexington County Jail  
Captain Alan Richardson, Jail Administrator  
Art Brooks, County Administrator  
Bill Banning, Chair, County Council  
John Carigg, County Council  
Jacob Wilkerson, County Council  
Deborah Nye, Deputy Finance Director  
Magistrate Bruce Rutland  
Circuit Court Judge William Keesley  
Family Court Judge David Sawyer  
Fran Humphries, Solicitor's Office  
Bob Rightsell, Solicitor's Office  
Glenn Greco, Solicitor's Office, Information Systems  
Ann Asman, Director, Pretrial Intervention  
Carson Fox, Drug Court Coordinator  
Sally Henry, Public Defenders Office  
Blake Taylor, Director, Inspections Division, South Carolina Department of Corrections  
Terry Haltiwanger, Probation and Parole

**Lancaster County**

Kim Roberts, Solicitors Office  
Ralph Smith, Director, Pretrial Intervention  
Chap Hurst, County Administrator  
Jerry Witherspoon, Deputy County Administrator  
Deborah Horne, Jail Administrator  
George Gardner, Probation and Parole  
Vernon McManus, Clerk of Court  
T.J. Gardner, Chief Magistrate (interviewed by telephone)

**McCormick County**

Scotty Callan, Probation and Parole

Thomas Minns, Public Defender

Annette Jones, Deputy Clerk of Court

Bob O'Neil, Jail Administrator

Coke Brown, Chief of Police, McCormick

Magistrate June Davis