

# The Argument For Fulfilling the 6<sup>th</sup> Amendment

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

*6<sup>th</sup> Amendment, United States Constitution*

Excessive caseloads are proscribed by ethics rules because they inevitably cause harm.<sup>18</sup> Overloaded public defense attorneys simply cannot give appropriate time and attention to each client.<sup>19</sup> They cannot investigate in a timely manner or fully. They cannot file the motions they should. Instead, attorneys are forced to triage cases, choosing which cases to focus attention on while allowing others to be resolved without appropriate diligence. A justice system burdened by triage risks unreliability, denying all people who rely on it—victims, witnesses, defendants, and their families and communities—efficient, equal, and accurate justice.

The primary drivers of case processing time are the number of continuances per case and the number of hearings per case in combination with the elapsed time between hearings.

**ECCM Findings**



Delivering Timely Justice in Criminal Cases: A National Picture. National Center for State Courts, (undated). Page 11

**Table S.1. Final Results of the Expert Panel Session with Example Caseload Standards**

<b>Case Type</b>	<b>Case Weight (Hours per Case)</b>	<b>Annual Caseload Standard</b>
Felony–High–LWOP	286.0	7
Felony–High–Murder	248.0	8
Felony–High–Sex	167.0	12
Felony–High–Other	99.0	21
Felony–Mid	57.0	36
Felony–Low	35.0	59
DUI–High	33.0	63
DUI–Low	19.0	109
Misdemeanor–High	22.3	93
Misdemeanor–Low	13.8	150
Probation/Parole Violations	13.5	154

NOTE: Annual caseload standards were calculated using an assumption of 2,080 hours available annually to a defender for case-related work.

# South Carolina Public Defenders By Circuit

Circuit	Public Defenders	Contract
1	14	1
2	15	0
3	12	0
4	7	0
5	38	0
6	9	0
7	19	0
8	26	12
9	39	0
10	17	6
11	21	0
12	12	0
13	20	0
14	24	0
15	18	2
16	20	0
Circuit PD	16	0
Total	327	21

Assumption	Hours/Cases
Total Hours Available	1864
Average Hours Per Case	40
Average Caseload	46.6

<https://sccid.sc.gov/about-us/county-public-defenders>

# How to Estimate Current Staffing Needs

- Ascertain current average caseload size per Circuit Court
- Determine number of filings per year by primary charge
- Apply national standards on hours needed per case to estimate total hours needed
- Determine hours available per year per attorney for handling cases (takes into account vacation, holidays, sick days, training, and other administrative tasks. This is one by position reflecting supervision positions)

Step 1. Total hours needed – total hours available = deficient or surplus hours.

Step 2. Deficient hours ÷ annual case-related duty hours per attorney FTE = additional FTE needed

# Potential Benefits of Reduced Caseloads

- Reduces pretrial jail populations and costs
  - Increased pretrial releases
  - Lower bail amounts
  - Reduced time to case disposition
  - Reduced use of continuances (number and length)
- Reduces correctional populations and costs
  - Reduce prison commitments
  - Reduced prison and probation sentence lengths
  - Reduced parole populations
- Could reduce racial inequities in correctional populations
- Ultimately number of Public Defenders required is reduced