

# After More Than Five Years of Litigation, Lexington County Agrees to Dramatically Increase Funding for Indigent Defense

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COLUMBIA, S.C. — After years of recalcitrance, the Lexington County Council voted Tuesday to approve a settlement agreement that will dramatically improve the quality and availability of public defense services for individuals facing prosecution in the Lexington County Magistrate Courts.

The settlement is the result of litigation brought in 2017 by the American Civil Liberties Union, the ACLU of South Carolina, and the Terrell Marshall Law Group, which exposed that Lexington County — like many counties across South Carolina — was routinely prosecuting, sentencing, and jailing indigent South Carolinians without providing access to legal representation as required by the landmark Supreme Court case, *Gideon v. Wainwright*.

The agreement — which now moves on to the federal court for final approval — marks a transformational win for people facing misdemeanor and traffic charges who are unable to afford a lawyer, as well as for criminal justice advocates who have long pointed to the state's magistrate and municipal courts as sites of rampant constitutional violations.

“It is truly terrifying to face the Magistrate Court system without having an attorney who can explain the law and make sure your rights are protected,” **said Sasha Darby, a plaintiff in the case.** “The changes in this settlement are a long time coming, and I am so happy that this means more people will have meaningful access to counsel.”

The County's decision to settle the lawsuit comes on the heels of a legal ruling by The Honorable Sherrie A. Lydon, federal judge for the District of South Carolina, who [concluded](#) in August that Lexington County “has engaged in policies, procedures, and customs that cause systemic deficiencies in funding, staffing and assignment of cases to public defenders with the result that indigent people in the [Lexington County Magistrate Courts] are deprived of court-appointed counsel.”

As recently as 2013, Lexington County did not have a single public defender assigned to represent criminal defendants in its magistrate courts. Access to a public defender continues to be woefully deficient.

Under the newly-approved settlement agreement, the County must provide its circuit public defender with enough funding to hire and retain six attorneys, one paralegal, one investigator, one administrative assistant, and one social worker. These positions will be exclusively assigned

to the Lexington County magistrate courts, and the County must continue its funding for these positions in each and every subsequent year.

**The following statements can be attributed as noted:**

**Allen Chaney, legal director for the ACLU of South Carolina**

“I am so proud of our plaintiffs and litigation team. After five years of relentless effort, it is extremely gratifying to achieve such a comprehensive and long-lasting victory.”

**Toby J. Marshall, Terrell Marshall Law Group**

“The United States Supreme Court ruled decades ago that the government must provide a public defender to any person who faces the possibility of jail for a criminal charge or unpaid court debt. This settlement puts an infrastructure in place for Lexington County to finally meet that obligation.”

**Olga Akselrod, senior staff attorney, ACLU’s Racial Justice Program**

“For years, Lexington County’s policies have systematically violated the constitutional right to counsel of people prosecuted in its Magistrate Courts. This settlement is a huge step toward ensuring that people navigating this legal process that can have life-altering outcomes will have access to the representation to which they are entitled.”