

CHAPTER 73

South Carolina Law Enforcement Division

(Statutory Authority: 1976 Code §§ 17-7-780, 23-3-130, 23-3-600 through 23-3-690 and 56-5-2950 and Article 1 of Chapter 23 of Title 16, Article 3 of Chapter 31 of Title 23 and Chapter 18 of Title 40)

ARTICLE 1 IMPLIED CONSENT TEST

73-1. Definitions.

- A. SLED. The term "SLED" shall mean the South Carolina Law Enforcement Division.
- B. Chemical Analysis. The term "chemical analysis" shall mean a chemical analysis of a person's breath to determine alcohol concentration.
- C. Alcohol Concentration. The term "alcohol concentration" shall mean the number of grams of alcohol for each one hundred milliliters of blood by weight or the number of grams of alcohol for each two hundred and ten liters of breath by weight.
- D. Breath-Testing Device. The term "breath-testing device" shall mean an instrument for making a chemical analysis and giving the resultant alcohol concentration based on an alveolar air/blood ratio of 2.100:1.
- E. Breath Test Operator. The term "breath test operator" shall mean an individual currently holding a valid permit from SLED to perform chemical analysis, of the type set forth within the permit, under the provisions of Sections 23-31-410, 50-21-114, 55-1-100, 56-1-286, 56-1-2130, and 56-5-2950 Code of Laws of South Carolina, 1976, as amended.
- F. Videotaping System. The term "videotaping system" shall mean the video equipment, audio equipment, and related hardware used to record breath tests.

HISTORY: Amended by State Register Volume 24, Issue No. 4, eff April 28, 2000.

73-2. Methods of Making Chemical Analyses.

- A. Methods. SLED shall approve such methods of performing chemical analysis as are demonstrated to the satisfaction of SLED to produce accurate and reliable determinations of alcohol concentration in a reasonable, convenient, and efficient manner.
- B. Breath-Testing Devices. SLED hereby approves the method of performing chemical breath analysis to determine alcohol concentration by using breath-testing devices. SLED will consider for approval only devices that first have been tested and approved for their accuracy and reliability by the National Highway Traffic and Safety Administration of the United States Department of Transportation. All approved devices will be specified in the SLED Policy and Procedures Manual.
- C. Certifications. SLED shall certify each breath-testing device. This certification shall include the calibration of the device with an external standard and the verification of the device's calibration with an internal and or external standard. Whenever a breath-testing device is certified, this certification will also constitute an inspection of the breath-testing device. For an instrument whose testing station is a mobile van, once the instrument is certified for use in the van, it remains certified regardless of the physical location of the van. Additionally, the certification tests and certification do not have to be repeated if the instrument and or its software are upgraded.
- D. Inspections. SLED shall inspect each certified breath testing device (either remotely via computer modem or on-site) at least once every three months. In addition, an inspection is performed after any repair is completed. This inspection shall include the verification of the device's

calibration with an internal and/or external standard. The inspection may begin before three months has elapsed and not be completed until after the three-month period. In this case, the time lapse between inspections may exceed three months. This occurrence is acceptable as long as no subject tests are performed until the inspection is completed. Therefore, at least one SLED inspection must be performed in the three months before a subject test. Failure to have an inspection within the required time does not cause revocation of certification for that instrument but signifies that proper procedures for that time were not followed.

E. Records. Certification, inspection, and database records shall be maintained by SLED for a minimum of five years. However, the accidental/unavoidable loss of data does not invalidate any breath tests.

HISTORY: Amended by State Register Volume 7, Issue No. 5, eff May 27, 1983; Amended by State Register Volume 8, Issue No. 7, eff July 27, 1984; State Register Volume 24, Issue No. 4, eff April 28, 2000.

73–2.1. Suggested Procedures for Obtaining and Handling Blood and Urine Samples.

A. Obtaining and Handling Blood and Urine Samples. The South Carolina Law Enforcement Division (SLED) recommends the following procedures by which blood and urine samples are to be obtained and handled if such samples are taken from persons arrested for DUI (1976 Code 56-5-2930 or 56-5-2950, as amended) and are taken under authority of 1976 Code 56-5-2950, as amended. Other procedures that meet appropriate medical standards are acceptable as well.

B. Reimbursement Procedures. The cost for obtaining a urine or blood sample shall be set by the Chief of SLED. Reimbursement for obtaining samples shall be made by mailing a copy of the SLED Urine/Blood Collection Report form for each sample collected. More than one collection report may be submitted with each invoice.

C. Suggested Procedures for Obtaining and Handling Urine Samples by Individuals so Authorized, Using Appropriate Collection Materials.

Note: Step 2 should be performed in view of subject and a witness of same sex.

1. Take an unused, uncontaminated container and remove cap or lid.
2. Hand the container to subject with instructions to fill container.
3. Have subject immediately return filled urine container. Replace cap or lid on container and tighten down to prevent leakage.
4. Label container with the following information: Name of subject, time and date of sample collection, and name of person collecting sample.
5. Place a piece of tape across cap or lid and seal to sides of container. Person sealing container should initial tape.
6. Fill out all information on Urine/Blood Collection Report Sheet.
7. As soon as possible after specimen collection, deliver sealed sample and Urine/Blood Collection Report to SLED Chemistry Laboratory for analysis.

D. Suggested Procedures for Obtaining and Handling Blood Samples by Individuals so Authorized, Using Appropriate Collection Materials.

1. Clear venipuncture site with non-ethanol skin preparation.
2. Withdraw blood and place in an unused, uncontaminated vial. Vials that contain both an anticoagulant and a preservative are preferred.
3. Cap vial securely.
4. Place following information on label: Name of subject, time and date of blood withdrawal, and name of person withdrawing blood.
5. Fill out information on Urine/Blood Collection Report.
6. Wrap blood vial securely in suitable material for transport.
7. As soon as possible after specimen collection, deliver sealed sample and Urine/Blood Collection Report to SLED Chemistry Laboratory for analysis.

HISTORY: Added by State Register Volume 12, Issue No. 5, eff May 27, 1988.

73-3. Certification of Breath Test Operators.

A. Duty of the Chief of SLED. The Chief of SLED shall certify breath test operators. In addition, the Chief shall issue, deny, renew, terminate, or revoke certifications of individuals to perform chemical analysis because of standards herein set forth.

B. Ability and Good Character. Permits shall be granted to individuals who (1) demonstrate the ability to perform chemical analyses accurately and reliably in accordance with a method or methods approved by SLED; (2) offer satisfactory proof of good character to the Chief of South Carolina Law Enforcement Division.

C. Course of Instruction. Individuals successfully completing courses held by the South Carolina Law Enforcement Division on chemical tests for intoxication, with a minimum number of course hours and with a curriculum approved in consultation with the Chief or his designated representative, shall be deemed to have demonstrated sufficient ability to qualify for the issuance of a permit. SLED may accomplish part of its statutory responsibilities by administratively delegating the training of breath test operators to the South Carolina Criminal Justice Academy.

D. Limitation of Permits. Permits may be limited in scope to the methods or devices for performing chemical analysis to those in which individual applying for a permit has demonstrated competence.

E. Terms/Conditions of Permits. Permits shall state the date upon which they are to expire, which date shall in no event be longer than twenty-four months from the date of issuance. Permits shall be subject to renewal at expiration, or at such time before expiration as is convenient for the Chief of SLED. The breath test operator may be required to show continuing ability to perform accurate and reliable chemical analysis and renewed proof of good character, if desired by the Chief of SLED. The Chief of SLED or his representative may at any time examine operators to determine such continuing ability. Permits shall be terminated or revoked by the Chief of SLED upon his finding that the breath test operator does not meet, or no longer meets, the qualifications necessary for the issuance of a permit.

HISTORY: Amended by State Register Volume 7, Issue No. 6, eff June 24, 1983; State Register Volume 24, Issue No. 4, eff April 28, 2000.

73-5. Videotaping at Breath-Test Sites.

A. Methods. SLED will approve such methods for performing videotaping that are demonstrated to the satisfaction of SLED to produce quality reproductions in a reasonable, convenient, and efficient manner.

B. Videotaping Systems. SLED will consider for approval only videotaping systems that have been approved for their quality and reliability by SLED. All approved systems will be specified in the SLED Policy and Procedures Manual.

C. Certifications. Pursuant to Section 56-5-2953, SLED will equip all SLED certified breath-testing sites with videotaping systems. SLED shall certify each videotaping system for recording breath tests. Videotaping systems, not certified by SLED, may be used only until SLED certified videotaping systems are installed. To obtain certification, a videotaping system must provide quality playback of a recording. Whenever a videotaping system is certified, this certification will also constitute an inspection of the videotaping system. For a videotaping system whose testing station is a mobile van, once the videotaping system is certified for use in the van, it remains certified regardless of the physical location of the van.

D. Inspections. SLED shall inspect every certified videotaping system on-site at least once every twelve months. However, the inspection may begin before twelve months has elapsed and not be completed until after the twelve-month period. In this situation, the time lapse between inspections may exceed one year. This occurrence is acceptable as long as no subject recordings are performed until the inspection is completed. Therefore, at least one SLED inspection must be performed in the twelve months before a subject recording. Failure to have an inspection within the required time does not cause revocation of certification for that videotaping system but signifies that proper procedures for that time were not followed.

E. Records. Certification and inspection records shall be maintained by SLED for a minimum of five years. However, the accidental/unavoidable loss of these records does not invalidate any videotape recordings or breath test results.

HISTORY: Added by State Register Volume 24, Issue No. 4, eff April 28, 2000.

**ARTICLE 2
ACCIDENT FATALITIES—BLOOD SAMPLES**

73–10. Procedures for Collection of Legal Blood Samples.

1. Clean the venipuncture site with a non-alcoholic skin prep, soap and water is preferred. Remember that some antiseptic skin preps contain alcohol as a solvent.
2. Withdraw seven (7) cc. of blood and place in the tube provided. These tubes have heparin as an anti-coagulant. Also place one-half ($\frac{1}{2}$ ounce) or more of urine in plastic container. Be sure to label tube and plastic container with deceased's name.
3. Cap the tube and mix well with the anti-coagulant.
4. The Coroner is to sign the form on the line designated and the person who withdrew the sample(s) is to sign in the space provided.
5. Blood, urine, and other samples are to be wrapped securely in cotton or paper (or other suitable material) and placed in the mailing container that is provided. Refrigerate, do not freeze if mailing is to be delayed.
6. Mail or bring the sample(s) to SLED, Post Office Box 21398, Columbia, South Carolina 29221 and mark to the attention of the CHEMISTRY LABORATORY.

**ARTICLE 3
CRIMINAL INFORMATION AND COMMUNICATION
SUBARTICLE I
COMPUTERIZED CRIMINAL HISTORY**

73–20. Definitions.

These definitions shall have the following meaning when used in the discussion of criminal history record information (CHRI) and computerized criminal history (CCH) unless the context denotes otherwise:

- A. "Administration of Criminal Justice" means the performance of any activity directly involving the detection, apprehension, detention pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused or convicted persons or criminal offenders, or the collection, storage, and dissemination of criminal history record information.
- B. "Criminal Justice Agency" means any governmental agency or sub-unit which as its principal function performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.
- C. "Criminal History Record Information" (CHRI) means records, fingerprint cards, dispositions, and data collected by criminal justice agencies on adult individuals who are at least seventeen years of age consisting of identifiable descriptors and notations of arrests, detentions, indictments, information, or other formal charges, and any dispositions arising therefrom. The term shall not include juvenile record information, except as provided by law.
- D. "Criminal Justice Information System" (CJIS) means a system, including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.
- E. "Dissemination" means any transfer of information, whether orally, in writing, or by electronic means.
- F. "Conviction data" means information which shows that an individual has been convicted or found guilty of a crime.

G. "Nonconviction data" means information which shows judicial dispositions to include not guilty, nolle prosequi, dismissals and similar findings.

H. "Nondisposition data" means arrest information without judicial disposition.

I. "Access" means the capability to add, delete, modify or otherwise manipulate information, or to cause such data to be transferred or stored either temporarily or permanently. This would apply to information maintained in either manual or automated form.

J. "Screening" means the process wherein an individual's background is reviewed with special emphasis being placed on determining whether there exists any criminal history record information on that individual. Screening will include the securing of an individual's fingerprints on the standard FBI fingerprint card, and the submission of this fingerprint card to the South Carolina Law Enforcement Division's Criminal Records Department for further processing.

K. "Direct Access" means the capability to obtain information available through the SLED/CJIS network by means of a computer terminal or similar device, and the dissemination of such information.

L. "Indirect Access" means receiving information available through the SLED/CJIS network by either an individual or agency possessing no computer terminal or similar device through an agency having direct access.

M. "User Agreement" means an agreement, entitled "Criminal History and Criminal Justice Information Agreement", between the South Carolina Law Enforcement Division and a SLED/CJIS user agency that will have direct access to various SLED/CJIS information. This agreement establishes responsibilities for the rules and regulations that govern the exchange of information between the parties, and the policies and procedures by which the system operates.

N. "Non-terminal User Agreement" means an agreement, entitled "Criminal Justice Non-Terminal Originating Agency Identifier (ORI) User Authorization Agreement", between a SLED/CJIS user agency having direct access and a criminal justice agency desiring indirect access to SLED/CJIS information. This agreement authorizes the agency having direct access to the SLED/CJIS information to utilize the ORI of the agency that will indirectly access SLED/CJIS at times when that agency will request information.

O. "Disposition" means information which states that a criminal charge contained in a criminal history record has been dealt with by proper judicial authority and that a final disposal of the charge has been made through a finding of guilty or not guilty, or that the charge has been dismissed, or that adjudication has been indefinitely postponed. In findings of guilt, a disposition will include information showing the final action of any court of appropriate jurisdiction including, but not limited to fines, sentencing, probation, pardon and restitution information.

P. "Sealed" means dissemination of criminal history record information is prohibited or restricted by conditions imposed by law or regulation.

HISTORY: Amended by State Register Volume 14, Issue No. 3, eff March 23, 1990; State Register Volume 25, Issue No. 9, eff September 28, 2001.

73-21. Organization, Purpose, and Function of Departments.

A. The State Law Enforcement Division Criminal Justice Information System, known as SLED/CJIS, acting as the State's central criminal justice information repository shall collect, process, and store criminal justice information and records necessary to the operation of the criminal justice information system of the State Law Enforcement Division. The SLED/CJIS is comprised of the State Crime Information Center (SCIC) which includes the Computerized Criminal History (CCH) department, the Criminal Records Department, and such other departments as may be deemed necessary.

(1) The Computerized Criminal History (CCH) Department has the responsibility for converting manual criminal history record information to computerized data. The mission of the computerized criminal history unit is to serve criminal justice agencies and to assist non-criminal justice agencies throughout the State and nation by providing current criminal history record information. Conversion of existing computerized criminal history will be compatible with established concepts and operating policies of the Federal Bureau of Investigation's National Crime Information Center (NCIC) to enable an accurate exchange of criminal history data. The five segments comprising an offender's Criminal History Record Information are:

- (a) identification segment
- (b) identification add-on segment
- (c) arrest segment
- (d) judicial segment
- (e) custody/supervision segment

South Carolina offense codes are assigned to each specific charge. The offense codes must meet State and national requirements for the entering of criminal history data.

(2) The Criminal Records Department has the responsibility of collecting, processing and storing all fingerprint cards and dispositions of persons arrested in the State. The Criminal Records Department supervisor will serve as the custodian of records. Fingerprints will be the basis for establishing computerized criminal history. The Criminal Records Department is responsible for the timely processing of all supporting documents for criminal history record information as provided to the SLED/CJIS by other criminal justice agencies. The department is also responsible for handling expungements as required by South Carolina statute. After the processing at SLED is completed, the department is responsible for forwarding the necessary documentation to the FBI/CJIS Division in Clarksburg, West Virginia.

The Criminal Records Department will be responsible for entering, editing, and storing all criminal fingerprint card images on the automated fingerprint identification system.

(3) The Data Communications Department has the responsibility of providing the necessary systems and programming support to develop, manage, and modify various computer applications and programs as deemed necessary by the Computerized Criminal History Department, the Criminal Records Department, the Uniform Crime Reporting Department and other criminal justice entities to facilitate the automated processing of various information. This department is further charged with the responsibility of maintaining computer equipment and associated software to ensure effective and efficient information processing and message switching, and to ensure that adequate levels of security are provided throughout the electronic data processing system. The Data Communications Department is also responsible for the maintenance and operation of the statewide communications network, the computer interface with the Federal Bureau of Investigation's National Crime Information Center, the National Law Enforcement Telecommunication System, the South Carolina Department of Public Safety, the South Carolina Automated Fingerprint Identification System, and other automated criminal justice systems.

(4) The Uniform Crime Reporting (UCR) Department has the responsibility for processing, analyzing, coding and compiling incident, supplemental, and booking reports received from law enforcement agencies, whether such reports are submitted on paper or by automated means. The Uniform Crime Reporting Department will classify and count incident, supplemental, and booking reports submitted by other agencies according to procedures defined by the International Association of Chiefs of Police Committee on Uniform Crime Reports, the Uniform Crime Records Committee of the National Sheriffs Association, the Uniform Crime Reports Section of the Federal Bureau of Investigation and the State Law Enforcement Division. The Uniform Crime Reporting Department will assure through training and quality control measures that all automated incident, supplemental, and arrest data submitted to the State Uniform Crime Reporting program are classified and counted according to these procedures.

B. When practicable, the SLED/CJIS will develop systems which will facilitate the exchange of criminal justice information between criminal justice agencies.

C. The SLED/CJIS will collect, process, maintain, and disseminate information and records with due regard to the privacy of individuals, and will maintain and disseminate only accurate and complete records.

HISTORY: Amended by State Register Volume 14, Issue No. 3, eff March 23, 1990; State Register Volume 25, Issue No. 9, eff September 28, 2001.

73-22. Completeness and Accuracy of Records.

A. The Criminal Records Department will maintain complete and accurate criminal history record information as submitted by criminal justice agencies.

B. Dispositions will be forwarded to the Criminal Records Department by the appropriate criminal justice agencies as soon after final judicial action as practicable in accordance with procedures established by the South Carolina Office of Court Administration and the South Carolina Law Enforcement Division.

C. The Criminal Records Department will process the dispositions as soon as practicable following their receipt.

D. All criminal justice agencies will query the central criminal history records repository at SLED/CJIS prior to dissemination of any criminal history record information to assure that the most current disposition data are being used. Inquiries will be made prior to any dissemination except in those cases when the central repository at SLED/CJIS is technically incapable of responding within the necessary time period.

E. Criminal history record information will not contain any information known to be in error. To accomplish this end, the South Carolina Law Enforcement Division will institute a process of data collection, entry, storage, and systematic audit that will minimize the possibility of recording and storing inaccurate information.

HISTORY: Amended by State Register Volume 14, Issue No. 3, eff March 23, 1990; State Register Volume 25, Issue No. 9, eff September 28, 2001.

73-23. Dissemination of Criminal History Record Information.

A. SLED/CJIS will operate and maintain a criminal justice information system which will support the collection, storage, retrieval, and dissemination of criminal history record information, both intrastate and interstate. SLED/CJIS will make available to bona fide criminal justice agencies, upon request, any information which will aid these agencies in the performance of their official duties, provided that the dissemination of such information will not be a violation of state or federal laws and regulations restricting its use. Dissemination will include disposition and non-disposition data.

B. User agencies will agree to abide by all laws, rules, and regulations concerning collection, storage, retrieval, and dissemination of criminal justice information.

C. All Criminal justice agencies which desire to exchange criminal history record information through the SLED/CJIS will execute a standard user agreement.

D. User agencies agree to indemnify and save harmless SLED/CJIS and its officials and employees from and against any and all claims, demands, actions, suits and proceedings by others, against all liability to others, including but not limited to, any liability for damages by reason of or arising out of any false arrest or imprisonment, or any cause of action whatsoever, or against any loss, cost, expense, and damage, resulting therefrom, arising out of or involving any action, inaction, slander or libel on the part of the user agencies in the exercise or enjoyment of this agreement.

E. The SLED/CJIS may disseminate criminal history record information, unless sealed, to private persons, governmental entities, businesses, commercial establishments, professional organizations, charitable organizations and others. The dissemination of criminal history record information will include all unsealed conviction data, non-conviction data and non-disposition data as well as findings of not guilty, nolle prosequi, dismissals, and similar dispositions which show any final disposition of an arrest.

(1) Identification of an individual whose record is to be searched will be based upon name, race, sex, date of birth, and, if available, a social security number. Notation will be made on any disseminated records which are identified solely by these characteristics and not by fingerprint comparison.

(2) Costs

(a) The fees for performing criminal history record searches will be established by the South Carolina General Assembly with advice from the Bureau of Economic Advisors.

(b) Method of Payment—Payment shall be made to the South Carolina Law Enforcement Division as specified by the Division.

(c) Revenue from fees charged for criminal record searches will go to the General Fund of the State, provided that the South Carolina Law Enforcement Division may retain sufficient funds to pay costs associated with payments made by credit card.

(3) All requests for criminal history record information by non-criminal justice users shall be made in writing or by personal appearance at the Criminal Records Department, or by the Internet.

(4) Persons wishing to determine whether criminal history records naming them are housed by SLED/CJIS may do so by inquiring in person at the Criminal Records Department between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday except legal State holidays. Proper identification will be required of persons making inquiries.

F. No criminal justice agency other than SLED/CJIS will disseminate to private persons, governmental entities, or any private or public entities, except criminal justice agencies, any criminal history record information other than that originated by that criminal justice agency, except where specifically provided for by law.

G. Criminal history logs will be maintained by those agencies which indirectly disseminate criminal history record information. The logs will contain the data necessary for contacting agencies or persons to which inaccurate information has been disseminated. Upon finding inaccurate information of a material nature, it is the duty of the criminal justice agency which discovers the inaccuracy to notify all criminal justice agencies or persons known to have received the inaccurate information. The following minimum information concerning the dissemination of criminal history record information will be maintained in the logs in order to provide an audit trail:

(1) Manual log:

- (a) date of dissemination
- (b) agency requestor
- (c) individual requestor
- (d) name of criminal history record subject
- (e) State identification number of criminal history record subject
- (f) description of items released
- (g) agency providing the information if this is indirect dissemination

(2) Computer system log:

The same information needed for manual logging of indirectly disseminated information will be maintained in any automated or computer logging system used for direct dissemination. The log information must be maintained in a medium which allows the data to be reproduced as a printed list.

(3) All log sheets will be made available to the SLED/CJIS upon request for purposes of quality control. The manual log and computer log will be maintained for a period of one year.

HISTORY: Amended by State Register Volume 14, Issue No. 3, eff March 23, 1990; State Register Volume 25, Issue No. 9, eff September 28, 2001.

73-24. Access and Review of Criminal Record Information.

A. Individual right of access and review:

(1) Upon verification of his or her identity, an individual will be entitled to review, without undue burden to either the agency or the individual, specific portions of criminal history record information maintained about the individual and obtain a copy thereof when necessary for the purpose of challenge or correction. Individuals wishing to review their records must appear personally at the SLED Criminal Records Department.

(2) Times for review will be 8:30 a.m. through 5:00 p.m. Monday through Friday, except legal State holidays.

(3) The requesting individual will fill out a SLED/CJIS review form, "Individual Request for Criminal Record Review".

(4) If the individual is accompanied by an attorney, the attorney must produce evidence that he is a member, in good standing, of a state bar association.

(5) When an individual who has mental or language disabilities is accompanied by another person to aid in the interpretation of the record, a statement explaining the presence of the person must be included in the review form. The accompanying person must also sign the review form.

(6) If the individual is accompanied by another person, including a potential employer, the accompanying person must not be allowed to see the record. The accompanying person must follow the regular dissemination procedures given above.

(7) Waivers have no authority. The record does not belong to the reviewing person, but to the agency which holds it.

(8) A reasonable fee will be charged for processing this review at SLED/CJIS. The fee is not to exceed the actual cost of searching, processing, fingerprinting, and producing copies of the review.

(9) Posters displayed at SLED will inform the public of an individual's right to inspect his or her criminal history record information.

B. Inspection method:

(1) An individual wishing to inspect his or her criminal history record information at SLED/CJIS must submit his or her name, date of birth, and a complete set of fingerprints recorded on an approved non-criminal fingerprint card.

(2) Inspection is restricted to once every six months, provided the record has not been challenged and new information has not been added.

(3) The site for inspecting a record housed at SLED/CJIS will be the office of the Criminal Records Department supervisor or a location designated by him or her to ensure the privacy of the individual during the review.

(4) Inspection of records held by other agencies will be the responsibility of the requestor.

C. Challenge procedures:

(1) In order to formally challenge a record, the individual will complete a SLED/CJIS challenge form, "Challenge of Criminal History Record".

(2) After completion of the challenge form, the individual will be given a copy of the entries which are being challenged.

(3) Each copy will be marked "For Review and Challenge Only".

D. Record verification and review procedures:

(1) SLED/CJIS must accept or deny the challenge by performing an "Administrative Review", as defined below, to determine the validity of the challenge.

(2) If SLED/CJIS finds errors or omissions or cannot verify the accuracy of a challenged record entry through other documentation provided by the appropriate criminal justice agencies, SLED/CJIS must accept the challenge and modify the record.

E. Administrative Review:

(1) Any individual who challenges his or her record at SLED/CJIS is entitled to have the challenged portion of the record removed, modified or corrected if there is no factual controversy concerning the challenge.

(2) If there is factual controversy and the finding of SLED/CJIS is against the individual, he or she is entitled to a review of the decision by the Assistant Director for SLED/CJIS, within thirty days of notification of the finding.

F. Administrative Appeal:

(1) If an individual's challenge or a portion of the challenge is denied by administrative review, the individual may, within thirty days of receipt of the denial, appeal the denial by petitioning the Criminal History Administrative Appeal Board.

(2) The Criminal History Administrative Appeal Board is composed of the Assistant Director of the South Carolina Law Enforcement Division for CJIS, and one management level representative each from:

- (a) local law enforcement agency;
- (b) the South Carolina Department of Probation, Parole, and Pardon Services;
- (c) the South Carolina Department of Corrections; and
- (d) the South Carolina Department of Court Administration.

(3) The individual requesting an administrative appeal will, within sixty days, be given a hearing at which the individual may present evidence concerning the record. If the appeal is denied, the individual must be notified in writing of the reason for the denial.

G. Agencies housing records that must be modified as a result of a Challenge must:

(1) Provide a corrected record to every criminal justice agency that received the criminal history record during the twelve months before the challenge was decided.

(2) Instruct those agencies to provide a corrected record to every criminal justice agency that received the criminal history record information from them in the twelve months prior to notification.

(3) Maintain the notification cycle until all criminal justice agencies have been notified and the names of all non-criminal justice agencies and individuals have been obtained.

(4) Provide the individual who challenged his record with the names of non-criminal justice agencies and individuals that received the information during the twelve months before the challenge was decided.

(5) Prohibit the individual's right to access and review of data contained in intelligence, investigatory, or other related files and any information other than that defined under U. S. Title 28, Section 20.3(b) and Section 20.21G(6).

HISTORY: Amended by State Register Volume 14, Issue No. 3, eff March 23, 1990; State Register Volume 25, Issue No. 9, eff September 28, 2001.

73-25. Security.

All agencies must provide security for any information that is subject to these regulations. These security principles and standards apply to both manual and automated information systems. The standards for both types of systems include access restraints, personnel security and control, disaster protection, training, and other technical security controls SLED CJIS deems necessary.

A. Access restraints to criminal history record information and the area in which it is located ensure that access to the following is restricted to authorized agencies and personnel: criminal history record information; system facilities; system operating environments; file contents, whether in use or stored in a media library; and system documentation.

(1) Physical locations such as records rooms, computer facilities, computer terminal locations, and rooms where files are kept will have access restraints.

(2) Areas containing criminal history records must be secured by physical barriers or attended by agency personnel who restrict access.

(3) Criminal history record information, when in areas with no access restraints, must be kept in cabinets or desks which can be locked.

(4) All personnel who are allowed to access criminal history record information must be subjected to a criminal history background investigation in accordance with SLED policy.

(5) Each criminal justice agency must control access to its criminal history record information, and must screen employees and other individuals who may have access to criminal history record information stored within the agency.

B. Criminal justice agencies must ensure that appropriate disciplinary action is taken whenever personnel violate security rules.

(1) Personnel control measures apply to the following employees, if those employees have access to criminal history record information, or use an automated system which can access criminal history record information: agency's employees, other public employees who work in the computer center, and private employees.

(2) Agencies must ensure that criminal justice agency employees and all personnel having access to criminal history record information are familiar with access and dissemination rules.

C. Criminal justice agencies must develop means to protect both automated and manual systems from natural or man-made disasters. These measures must protect any repository of criminal history record information from unauthorized access, theft, sabotage, fire, flood, wind, or natural or man made disasters.

D. Personnel whose duties require access to criminal history record information must be instructed in all access and security measures and procedures. SLED/CJIS must provide basic training in this area for all criminal justice agencies.

HISTORY: Amended by State Register Volume 14, Issue No. 3, eff March 23, 1990; State Register Volume 25, Issue No. 9, eff September 28, 2001.

73–26. Expungement of Criminal History Record Information.

SLED/CJIS must expunge criminal history record information in accordance with the South Carolina 1976 Code of Laws, as amended. SLED/CJIS must ensure that its manual and automated records are expunged as required, and that the Federal Bureau of Investigation *Identification Bureau* CJIS Division is notified whenever expungements affect criminal history record information housed at the Federal Bureau of Investigation.

HISTORY: Amended by State Register Volume 14, Issue No. 3, eff March 23, 1990; State Register Volume 25, Issue No. 9, eff September 28, 2001.

73–27. Audit Procedures.

SLED/CJIS must institute audit procedures to ensure that criminal history record information is accurate. SLED/CJIS has the right to suspend services to any user agency that knowingly and willfully violates any federal or state law or regulation pertaining to the use, collection, storage, or dissemination of criminal history record information.

A. Field audits of user agencies must be performed by personnel designated by the Assistant Director for SLED/CJIS. The Assistant Director for SLED/CJIS or his or her designee will act as liaison between user agencies and auditors, and must review the findings of audits to determine what assistance, remedies, or other action may be required, or whether a user agency may be re-audited after a period sufficient to correct any deficiencies that may have been discovered. Auditors must perform audits in accordance with a schedule approved by the Assistant Director for SLED/CJIS, and must regularly report their findings and recommendations. In addition to auditing user agencies for compliance with the contents of this chapter and State statutes, the auditors must review the agencies' compliance with all Federal Bureau of Investigation/National Crime Information Center regulations, and federal regulations and statutes governing criminal justice information and communications.

B. Field audits must have two basic components:

(1) A procedural audit must examine the procedures that are necessary for compliance with State and federal statutes and regulations. Auditors must inspect written procedures and manuals, and must interview personnel to evaluate methods of compliance and levels of understanding. Sites must be examined to determine levels of access restraint and security. The audit must include, but not be limited to, reviews of record and disposition reporting procedures, dissemination procedures, individual's right of inspection, and security.

(2) An audit of a user agency's activity logs must examine an agency's activity tracking mechanisms. Dissemination logs, site access logs, computer terminal records, and record correction logs for criminal history record information will be examined. The auditor must review logging procedures and interview personnel who handle or process records.

C. The regulations also require systematic internal auditing as a means of guaranteeing the completeness and accuracy of computerized criminal history record information. The Criminal Records Department and the Computerized Criminal History Department must verify the completeness and accuracy of the data by comparing Criminal History Record Information with the source documents. These source documents include the original and subsequent fingerprint cards, arrest reports, disposition reports, court, corrections, probation, and parole records. SLED/CJIS must maintain computer audits that assure the entry of valid data. Records found to contain errors must be forwarded to the Criminal Records Department and, if necessary, to the originating agency for correction. Errors must be corrected as soon as practicable in both the manual and automated files.

HISTORY: Amended by State Register Volume 14, Issue No. 3, eff March 23, 1990; Renumbered from R 73–28 by State Register Volume 25, Issue No. 9, eff September 28, 2001.

73-28. Renumbered.

HISTORY: Former Regulation, titled **Audit Procedures**, had the following history: Amended by State Register Volume 14, Issue No. 3, eff March 23, 1990. Renumbered to R 73-27 by State Register Volume 25, Issue No. 9, Doc. No. 2533, eff September 28, 2001.

SUBARTICLE II UNIFORM CRIME REPORTING

73-30. Uniform Crime Reporting.

A. Every law enforcement agency must send SLED a copy of each report made by any officer during the performance of his duties in responding to reported criminal violations within the jurisdiction of that agency. Reports must be sent to SLED regardless of the degree of seriousness of the reported criminal activity.

B. The reports must be recorded on standard forms approved by SLED, commonly referred to as incident reports.

C. Reports must include, to the maximum extent possible, details of all offenses investigated by officers, whether actual or unfounded, to include follow-up investigations, reports of property recovered, changes in the status of any case, and other similar comments. Sworn statements of witnesses need not be sent to SLED; however, information gathered from such statements should be transmitted to SLED if it changes or clarifies the status or classification of a prior report.

D. Every law enforcement agency must send SLED a copy of each arrest document made by any officer, jailor, or other official. Departments must record the personal descriptive data and criminal charges of each person who is placed under lawful arrest, regardless of whether that person is incarcerated, released on bail, or otherwise disposed of. Arrest documents must be completed on all persons placed under lawful arrest regardless of whether the case is ultimately prosecuted. Arrest documents must be completed on each person placed under lawful arrest regardless of the degree of seriousness of the offense committed.

E. Arrest documents must be of a standard type approved by SLED, commonly referred to as booking reports.

F. All copies of incident reports and booking reports must be forwarded to SLED on a regular and timely basis, but not less often than once weekly. Incident and booking reports made by any agency during any month must arrive at SLED no later than the fifth day of the following month.

G. SLED responsibilities include processing, analyzing, coding, and compiling all incident and booking reports received and making available to law enforcement and other governmental agencies whatever information is gathered from the reports within the limits of the reporting program. SLED is not prohibited from assigning any of these responsibilities to contributing or other agencies if deemed qualified by SLED procedures.

H. SLED responsibilities also include the proper classification and counting of all incident and booking reports. Classification and counting procedures must correspond insofar as is feasible to those generally accepted nationwide in all uniform crime reporting programs. These procedures are defined by the International Association of Chiefs of Police Committee on Uniform Crime Reports, the Uniform Crime Reports Division of the Federal Bureau of Investigation and the Uniform Crime Reports Section of SLED.

HISTORY: Amended by State Register Volume 25, Issue No. 9, eff September 28, 2001.

ARTICLE 5 UNLAWFUL WEAPONS

73-60. Concealed Weapons Permits Issued by the State Law Enforcement Division.

1. At the discretion of the Chief, the Division may accept military training or a letter from a bona fide law enforcement officer as to the applicants proficiency in the use of handguns.

2. The permit shall remain the property of the Division. Upon expiration or revocation of permit such permit shall be returned to the Division within five (5) days.

3. The fee for the permit is non-refundable.
4. Any permit issued by the Division shall require the weapon to be carried concealed and under such other conditions as may be stated on the permit.
5. If the required bond is cancelled such permit shall become invalid until such time as a new bond is received by the Division.
6. (a) The Division may, after a hearing before the Chief of the Division, suspend or permanently revoke any permit issued under Article 1 of Chapter 23 of Title 16 or Article 3 of Chapter 31 of Title 23 of the 1976 Code if he determines that holder of such permit has violated Section 7(c) or any of these rules and regulations.
 - (b) Pending the hearing provided for in Section 7(a), the Division may suspend any permit issued under Article 1 of Chapter 23 of Title 16 or Article 3 of Chapter 31 of Title 23 of the 1976 Code when it has good reason to believe that grounds for revocation exist. Such suspension or revocation shall be in writing, signed by the Chief of the Division stating the grounds for which the revocation is based.
 - (c) The ground for revocation shall be abuse of this privilege or any arrest and conviction of the permit holder for any crime for which a penalty of imprisonment for more than one year may be imposed. The term conviction shall include a plea of guilty, nolo contendere or forfeiture of bail.
 - (d) Any person found to be using such permit for reasons other than stated on his application or permit shall have such permit revoked.

73-61. State DNA Database.

A. Definitions.

- (1) Sample. The term "sample" is defined as a specimen from the human body from which DNA may be obtained and which meets SLED specifications as defined in the SLED DNA Database Operating Policies and Procedures.
- (2) Subject. The term "subject" is defined as an individual from whom the sample is being obtained.
- (3) Jurisdictional agency. The term "jurisdictional agency" is defined as an agency of the State or its political subdivisions having jurisdiction over a subject.
- (4) Database collection kit. The term "database collection kit" is defined as a sample collection kit containing at a minimum, instructions, sample container, database collection card and appropriate safety procedures as described in the SLED DNA Database Operating Policies and Procedures.
- (5) DNA Testing/Typing. The term "DNA testing/typing" is defined as the procedure(s) used to develop a DNA profile from the sample collected from the subject. The words testing and typing are, for these purposes, interchangeable.

B. Sample Collection and Identification.

- (1) Samples must be collected using the database collection kit(s).
 - (a) The sample must be collected and identified following the instructions found in the database collection kit as described in the SLED DNA Database Operating Policies and Procedures.
 - (b) Subject information must be provided as indicated on the database collection card found in the database collection kit as described in the SLED DNA Database Operating Policies and Procedures.
 - (c) Jurisdictional agencies will incur all costs associated with sample collection and completion of information in the database collection kit.
 - (d) SLED will provide the database collection kit at no charge to jurisdictional agencies.
 - (e) Jurisdictional agencies may obtain information on receiving kits by contacting the DNA Database Section at SLED Headquarters in Columbia, South Carolina.
- (2) Samples not meeting SLED approved specifications as defined in the SLED DNA Database Operating Policies and Procedures must be recollected.
 - (a) SLED will notify the jurisdictional agency of samples to be recollected.
 - (b) The jurisdictional agency will be responsible for obtaining the recollected sample as described in subsection B(1) and C.

C. Sample Handling, Transportation and Shipment.

(1) Samples must be handled in such a way as to minimize possible biohazards as described in the SLED DNA Database Operating Policies and Procedures.

(2) Completed database collection kits may be mailed to SLED at the address on the front of the kit or hand delivered.

(3) Completed database collection kits should be immediately mailed or hand delivered to SLED or stored according to instructions in the database collection kit as described in the SLED DNA Database Operating Policies and Procedures.

(4) Completed database collection kits will be received by the SLED DNA Database Section. Hand delivered database collection kits will be accepted at SLED Headquarters in Columbia, SC as described in the SLED DNA Database Operating Policies and Procedures.

(5) All costs associated with shipment and or transportation of database collection kits are the responsibility of the jurisdictional agency.

D. DNA Testing, Typing and Analysis.

(1) Testing procedures and analysis of testing results are described in the SLED DNA Database Operating Policies and Procedures.

(2) The costs for sample testing and analysis of testing results are the responsibility of SLED.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

ARTICLE 6

UNIFORM PROCEDURES FOR HANDLING OF CONTROLLED SUBSTANCES

(Statutory Authority: 1976 Code §§ 44-53-120 and 44-53-485)

73-70. Definitions.

For the purposes of this Article, the following definitions apply:

1. Bloodborne Pathogen Plan: A law enforcement agency's published plan instructing its officers and employees in the safe handling, containment and disposal of blood and/or body fluid contaminated objects, surfaces, etc., to which Universal Precautions apply.

2. Chemical Analysis: A physical or chemical process or reaction which is used to identify or quantify controlled substances.

3. Confirmatory Test: An instrumental analysis which provides for determination of the molecular structure of a controlled substance including but not limited to mass spectroscopy and infrared spectroscopy, or the combination of two or more positive tests which are based on significantly different scientific principles and methodology.

4. Control Number: A serially assigned number or combination of letter(s) and number(s) stamped on each SLED Drug Analysis Security Envelope used as a unique identifier for that Envelope and its accompanying paperwork.

5. Controlled Substance: Any drug, substance, or immediate precursor of chemical or natural origin which is listed in Schedules I through V of controlled substances set forth in the United States Code and the Code of Federal Regulations and any drug which is legally dispensable only with a physician's prescription whether listed in Schedules I through V or not.

6. Criminalist: A scientifically trained specialist employed by a Forensic Laboratory to perform chemical and physical analyses. These analyses can include, but are not limited to, the physical or chemical indication and confirmation of the presence of a controlled substance.

7. Drop Box: An attended or unattended temporary storage container configured so as to permit a law enforcement officer or employee to deposit items of evidence within the container but which will not thereafter allow the removal of evidence unless an access door is unlocked and opened. Drop boxes include but are not limited to commercial night deposit boxes and postal service type boxes.

8. Engineering Controls: Means controls (e.g., sharps disposal containers, hypodermic syringe safety containers) that isolate or remove the bloodborne pathogens' hazard from the work place.

9. Evidence Custodian: A law enforcement officer or law enforcement employee other than the seizing officer who, during the course of his or her duties, stores, safeguards, or transports controlled substances.

10. Forensic Laboratory: Either (1) the South Carolina Law Enforcement Division (SLED) Forensic Science Laboratory or (2) a publicly-owned facility equipped for the chemical and/or physical analysis and testing of controlled substance evidence.

11. Hazardous Waste: Any waste identified as hazardous by South Carolina Hazardous Waste Management Regulations promulgated by the South Carolina Department of Health and Environmental Control or its successors.

12. Indicative Test: A test which can be chemical, instrumental, and/or visual, that displays a general characteristic or class of controlled substances to which suspected controlled substance evidence could belong.

13. Initial Custody Form: A form prescribed in the Rule for Chemical Analysis and Chain of Custody found in the South Carolina Criminal Practice Rules. Its full title is "Certificate of Proof of Chain of Physical Custody or Control (Initial Custody)."

14. Law Enforcement Agency: Any public law enforcement agency of the State or any of its political subdivisions which, as its principal function, performs the administration of criminal justice.

15. Law Enforcement Employee: Any employee hired by and regularly on the payroll of any law enforcement agency, of the State or any of its political subdivisions who is not a law enforcement officer and does not have the power to effect arrests.

16. Law Enforcement Officer: Any appointed officer hired by and regularly on the payroll of any law enforcement agency, of the State or any of its political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the State and who possesses, with respect to those laws, the power to effect arrests for offenses committed or alleged to have been committed.

17. Paraphernalia: Any article or equipment used in connection with the unlawful sale or consumption of controlled substance(s) including but not limited to scales, pipes, mirrors, razors, and hypodermic syringes.

18. Sealed Container: Any evidence container which is closed and sealed in such a manner that surreptitious entry of the container or tampering with the container or its contents will be evident.

19. Seizing Officer: The first law enforcement officer to take actual physical possession of the controlled substance(s) or suspected controlled substance(s).

20. SLED: Shall mean the South Carolina Law Enforcement Division.

21. Subsequent Change of Custody Form: A form prescribed in the Rule for Chemical Analysis and Chain of Custody found in the South Carolina Criminal Practice Rules. Its full title is "Certificate of Proof of Chain of Physical Custody or Control (Subsequent Change of Custody)."

22. Tamper Evident Package: An evidence package which, when sealed, has all seams and openings properly sealed with pressure sensitive evidence tape or other security sealing material so that any attempt to surreptitiously enter the sealed evidence package can be detected.

23. Two-Person Rule: A system to prohibit a single individual from having access to or exercising custody over controlled substance evidence by requiring the presence at all times of at least two authorized persons, each capable of detecting incorrect or unauthorized procedures with respect to the task being performed.

HISTORY: Added by State Register Volume 18, Issue No. 4, eff April 22, 1994.

73-71. General Applicability.

A. The requirements of this article shall apply to all law enforcement officers, law enforcement employees, law enforcement agencies, and Forensic Laboratories.

B. Only those portions of the requirements of this article dealing with the safety, record keeping, and storage of controlled substance evidence shall apply to Clerks of Court.

C. No requirement of this article shall apply to licensed physicians, nurses, pharmacists or health care professionals who lawfully handle, transport, store, or dispense controlled substance(s) in the course of their employment.

HISTORY: Added by State Register Volume 18, Issue No. 4, eff April 22, 1994.

73-72. Recordkeeping.

A. Law enforcement officers, law enforcement employees, law enforcement agencies, Forensic Laboratories, and Clerks of Court shall create and maintain written records as required elsewhere in this article.

B. All written records required by this article must be retained for a period of not less than five years but may be retained longer if needed for legal or administrative purposes.

C. Records created and maintained by a law enforcement agency on secure electronic information management systems may be substituted for any written record required in this article except for:

- (1) Certificate of Proof of Chain of Physical Custody or Control (Initial Custody)
- (2) Certificate(s) of Proof of Chain of Physical Custody or Control (Subsequent Custody)

D. Law enforcement officers, law enforcement employees, law enforcement agencies, Forensic Laboratories, or Clerks of Court shall, on request, make available to SLED any written record or records required by this article.

HISTORY: Added by State Register Volume 18, Issue No. 4, eff April 22, 1994.

73-73. Safety and Security.

A. Controlled substance evidence must at all times be handled with caution since it may represent a threat both to the health and safety of those persons handling the evidence and to the environment.

B. All persons regulated by this article shall treat as contaminated any controlled substance(s) or paraphernalia which are or were:

- (1) in contact with blood or other body fluids which may contain bloodborne pathogens;
- (2) recovered from a body cavity;
- (3) seized from a person manifesting symptoms of a communicable disease;
- (4) seized from any location which may be contaminated by chemical or biological agents such as toilets and sewers.

C. Law enforcement officers and law enforcement employees must follow the procedures set forth in the bloodborne pathogen control plan adopted by their employing law enforcement agency.

D. All law enforcement officers and law enforcement employees who reasonably believe that controlled substance evidence in their custody or control may be contaminated by bloodborne or other communicable pathogens must:

- (1) Securely package the controlled substance evidence in a sealed, non-permeable, leak and puncture resistant container.
- (2) Mark the exterior of the secure package with a red or orange biohazard warning symbol.

E. Approved safety containers or other engineering control devices must be used when packaging controlled substance specimens or paraphernalia which are jagged or sharp.

F. Controlled substance evidence from two or more unrelated cases shall not be mixed with each other.

G. Where practicable, all controlled substance evidence seized in connection with one criminal event shall be packaged and stored together in a sealed container. Exception is allowed in cases where:

- (1) Very large quantities of controlled evidence are seized.
- (2) Where security of the controlled substance(s) requires its separation.
- (3) Where prosecutorial considerations require the controlled substance evidence to be separated.

H. Money, firearms, and other items of evidence which are not controlled substance(s) or paraphernalia shall not be stored in the same sealed container with controlled substance evidence.

I. When packaging controlled substance evidence, care must be taken to insure that the physical condition of the evidence does not deteriorate. Wet evidence and/or freshly cut green plant material must not be placed into non-permeable sealed containers unless they are first thoroughly dried.

J. Small items of controlled substance evidence such as powders, rock-like substances, pills, and capsules shall not be placed into a large outer evidence container unless they have first been provided some form of protective interior container such as a pill box, bottle, envelope, or plastic pouch.

K. When controlled substance evidence is properly described and sealed within a tamper-evident container, evidence custodians may thereafter rely on the description of contents provided to them for the sealed package. It is not necessary for evidence custodians to open, inspect or inventory properly sealed evidence containers in undamaged condition. Evidence custodians may pass custody of the properly sealed evidence container in undamaged condition with accompanying description of contents to other evidence custodians who may also rely upon the description of contents.

HISTORY: Added by State Register Volume 18, Issue No. 4, eff April 22, 1994.

73–80. Duties of the Seizing Officer.

A. The seizing officer shall create or shall cause to be created at his or her employing law enforcement agency a written record of any controlled substance(s) or suspected controlled substance(s) or paraphernalia that shall come into his or her possession.

B. The written record of seized controlled substance(s) shall be created as soon as is practical after seizure but not more than 72 hours thereafter unless:

- (1) the seizing officer becomes physically incapacitated;
- (2) creation of the written record would jeopardize a criminal investigation;
- (3) the seizing officer receives permission from his or her superior to delay creation of the written record.

C. The written record shall contain at least the following:

- (1) Name of the Seizing Officer
- (2) Name of law enforcement agency employing the seizing officer
- (3) Date of seizure
- (4) Name of person from whom or specific location from which controlled substance(s) was seized (if known)
- (5) State whether seizure was subject to a warrant, lawful arrest, or otherwise
- (6) Place where the controlled substance(s) was seized
- (7) Description of the substance(s) or container(s) alleged to contain a controlled substance using sufficient particularity to distinguish it.
- (8) The disposition of the controlled substance(s) including the date delivered, the name of the person to whom delivered, the law enforcement agency employing that person, and the signature of the seizing officer.

D. The seizing officer shall create or cause to be created an Initial Custody Form. This initial custody form shall contain the following information:

- (1) Name of the Seizing Officer
- (2) Name of law enforcement agency employing the seizing officer
- (3) Date of seizure
- (4) Name of person from whom or specific location from which controlled substance(s) was seized (if known)
- (5) State whether seizure was subject to a warrant, lawful arrest, or otherwise
- (6) Place where the controlled substance(s) was seized
- (7) Description of the substance(s) or container(s) alleged to contain a controlled substance using sufficient particularity to distinguish it.

E. If and when it is necessary to transfer custody of controlled substance evidence to an evidence custodial, the seizing officer will complete the Initial Custody Form by filling in or causing to be filled in the following:

(1) The date when the seizing officer delivered the controlled substance(s) to the evidence custodian.

(2) The name of the evidence custodian to whom the controlled substance(s) will be delivered by the seizing officer.

(3) The law enforcement agency employing the evidence custodian to whom the controlled substance(s) will be delivered.

(4) A statement by the seizing officer that the controlled substance(s) is in substantially the same condition as when he received it.

(5) If the controlled substance(s) was altered in any way while in the possession of the seizing officer, the seizing officer shall in writing fully describe the nature and extent of the alteration. The written record of alteration to the controlled substance evidence must be kept with the chain of custody record.

(6) The properly sworn and notarized signature of the seizing officer is required if the provisions of the Rule for Chemical Analysis and Chain of Custody as set forth in the South Carolina Criminal Practice Rules are to be effective. The signature of the seizing officer alone is sufficient to maintain the written record of the chain of custody.

F. The seizing officer shall deliver the completed original initial custody form together with the controlled substance evidence to the evidence custodian. The seizing officer may make copies of the initial custody form for his or her own records. The original signed Initial Custody Form must accompany the evidence until it is presented to the Forensic Laboratory for analysis.

G. The controlled substance(s) shall be submitted to a secure repository within the seizing officer's law enforcement agency or to a forensic laboratory as soon as practical after seizure but not more than 72 hours thereafter unless:

(1) the seizing officer becomes physically incapacitated;

(2) submittal of the controlled substance evidence would jeopardize a criminal investigation;

(3) the seizing officer receives permission from his or her superior to delay submission of the controlled substance evidence.

H. If the seizing officer reasonably believes that the controlled substance evidence may be contaminated by bloodborne or other communicable pathogens, he or she must securely package the evidence in a leak and puncture resistant container which is prominently marked with a red or orange biohazard symbol.

HISTORY: Added by State Register Volume 18, Issue No. 4, eff April 22, 1994.

73-90. Duties of Evidence Custodians.

A. Any law enforcement officer or law enforcement employee who receives suspected controlled substance evidence or paraphernalia from another law enforcement officer or law enforcement employee must maintain the record of the chain of custody.

B. Evidence custodians must neither alter the controlled substance evidence themselves nor allow others to alter the evidence except as may be reasonably necessary for a Forensic Laboratory analysis or field test. Any alteration of the controlled substance(s) must be documented in writing and the record of alteration must be kept with the chain of custody.

C. All evidence custodians shall create or cause to be created a written record concerning the controlled substance evidence within their custody containing at least the following:

(1) The name of the evidence custodian

(2) The name of the law enforcement agency employing the evidence custodian

(3) The capacity of employment of the evidence custodian

(4) The date when the controlled substance evidence was received

(5) How the controlled substance evidence was received (by mail, in person)

- (6) From whom the controlled substance evidence was received
- (7) The name of the agency employing the law enforcement officer or law enforcement employee from whom the controlled substance(s) was received
- (8) The name of the original seizing officer
- (9) The description of the controlled substance(s) or container(s) alleged to contain a controlled substance, using sufficient particularity to distinguish it.

D. Each and every evidence custodian shall create or cause to be created a Subsequent Change of Custody Form. This subsequent change of custody shall contain the following information:

- (1) The name of the evidence custodian
- (2) The name of the law enforcement agency employing the evidence custodian
- (3) The capacity of employment of the evidence custodian
- (4) The date when the controlled substance evidence was received
- (5) How the controlled substance evidence was received (by mail, in person)
- (6) From whom the controlled substance evidence was received
- (7) The name of the agency employing the law enforcement officer or law enforcement employee from whom the controlled substance(s) was received
- (8) The name of the original seizing officer
- (9) The description of the controlled substance(s) or container(s) alleged to contain a controlled substance, using sufficient particularity to distinguish it.

E. If and when it is necessary to transfer custody of the controlled substance evidence to the next evidence custodian, the evidence custodian in possession of the evidence will complete the Subsequent Change of Custody Form by filling in or causing to be filled in the following:

- (1) The date when the evidence custodian in possession of the controlled substance evidence relinquished custody to the next evidence custodian
- (2) The name of the next evidence custodian who is about to receive the controlled substance evidence
- (3) The law enforcement agency employing the next evidence custodian who is about to receive the controlled substance evidence
- (4) A statement by the evidence custodian in possession of the controlled substance evidence that the evidence is in substantially the same condition as when it was received. Any alteration of the controlled substance evidence must be documented in writing and the record of alteration must be kept with the chain of custody.
- (5) The properly sworn and notarized signature of the evidence custodian in possession of the controlled substance evidence is required if the provisions of the Rule for Chemical Analysis and Chain of Custody as set forth in the South Carolina Criminal Practice Rules are to be effective. The signature of the evidence custodian alone is sufficient to maintain the written record of the chain of custody.

F. After completing the Subsequent Change of Custody Form, the evidence custodian shall deliver the original Initial Custody Form and the original Subsequent Change of Custody Form or Forms together with the controlled substance evidence to the next evidence custodian. Each evidence custodian may make and keep copies of both the Initial Custody Form and the Subsequent Change of Custody Form or Forms for his or her own records.

G. The original signed Initial Custody Form and Subsequent Change of Custody Form or Forms must accompany the evidence until it is presented to the Forensic Laboratory for analysis. The Forensic Laboratory shall retain all original Initial Custody and Subsequent Chain of Custody Forms accompanying the controlled substance(s) submitted for testing and analysis.

HISTORY: Added by State Register Volume 18, Issue No. 4, eff April 22, 1994.

73-100. Use of Best Evidence Sample Testing (BEST).

A. The BEST EVIDENCE SAMPLE TESTING (BEST) protocol is a system of drug evidence handling offered by the South Carolina Law Enforcement Division (SLED). SLED supplies at no cost to law enforcement agencies in South Carolina, pre-packaged kits consisting of at least the following:

(1) a control-numbered outer envelope with directions printed thereon which contains all the materials listed in 2 through 5 below;

(2) a control-numbered, tamper-evident, blue-trimmed plastic SLED Drug Analysis Security Envelope;

(3) a SLED Drug Analysis Request Form, a multi-part paper form;

(4) one—Certificate of Proof of Chain of Physical Custody or Control (Initial Custody);

(5) three—Certificate of Proof of Chain of Physical Custody or Control (Subsequent Custody).

B. Only controlled substance evidence may be submitted for analysis using the BEST system. No other kind of evidence may be submitted for Forensic Laboratory analysis using the BEST system. No other type of Forensic Laboratory analysis other than testing for controlled substance(s) will routinely be performed on evidence received using the BEST system.

C. The seizing officer shall inspect the blue-trimmed plastic SLED Drug Analysis Security Envelope for imperfections or damage. Security Envelopes which are punctured, cut, torn, or imperfect in any way shall not be used.

D. Any SLED Drug Analysis Security Envelope which is damaged, imperfect, unfit for use, or no longer needed shall be returned to SLED for destruction or disposition.

E. No law enforcement officer using the BEST system shall place or allow to be placed any of the following items in the blue-trimmed plastic SLED Drug Analysis Security Envelope:

(1) Hypodermic Syringes

(2) Razor Blades

(3) Any object or objects likely to cut, puncture, or tear the security envelope

(4) Money

(5) Any evidence requiring other kinds of scientific examination such as fingerprint processing or trace evidence analysis.

(6) Any wet or damp objects

(7) Freshly cut green plant material.

F. The seizing officer shall fill in or cause to be filled in the following information on the SLED Drug Analysis Request Form:

(1) County in which the offense occurred;

(2) Control Number—of the SLED Drug Evidence Security Envelope into which the controlled substance evidence will be placed;

(3) ORI (Originating Agency Identifier) number of the law enforcement agency requesting that Forensic Laboratory analysis of the controlled substance(s) be conducted;

(4) Type of crime;

(5) Incident date;

(6) Name, race, and sex of all the subject or subjects (defendants) if known, and the Social Security Number, Driver's License Number, or other unique identifying number if available;

(7) Inventory of the controlled substance(s) submitted for analysis using sufficient particularity to distinguish it.

(8) The signature of the seizing officer and the legibly printed name of the seizing officer on the bottom of the SLED Drug Analysis Request Form.

G. The seizing officer must record the control number of the SLED Drug Analysis Security Envelope into which the controlled substance evidence will be placed on the Initial Custody Form and on the written record of seized controlled substance(s) maintained by his or her law enforcement agency.

H. The seizing officer shall place only the controlled substance evidence and the manilla colored copy of the SLED Drug Analysis Request Form into the blue-trimmed plastic SLED Drug Evidence Security Envelope. The manila copy of the SLED Drug Analysis Request Form which is printed on

heavyweight paper, shall be inserted into the SLED Drug Evidence Security Envelope so that it can be read through the clear, unprinted side of the Security Envelope.

I. Initial Custody and Subsequent Change of Custody Forms shall not be placed inside the blue-trimmed plastic SLED Drug Evidence Security Envelope.

J. The Seizing officer must fill in or cause to be filled in the following information on the front printed side of the blue-trimmed plastic SLED Drug Evidence Security Envelope:

- (1) Agency, the name of the law enforcement agency employing the seizing officer
- (2) Date sealed
- (3) Name of seizing officer, legibly printed
- (4) Signature of seizing officer

K. The seizing officer must properly seal the blue-trimmed SLED Drug Evidence Security Envelope before the controlled substance evidence contained therein leaves his or her custody following the directions for proper sealing of the SLED Drug Evidence Security Envelope.

L. The seizing officer must affix a biohazard warning symbol to the blue-trimmed drug evidence security envelope if he or she has reason to believe that any of the controlled substance evidence or paraphernalia placed therein has been contaminated by any biological materials.

M. Once the SLED Drug Evidence Security Envelope is sealed, no law enforcement officer or law enforcement employee shall attempt to re-open the Security Envelope except as herein described. If it is necessary to remove the evidence from a sealed SLED Drug Evidence Security Envelope for any reason, the bottom of the Security Envelope shall be obviously cut open along the dotted lines provided for the purpose. No attempt should be made to re-open a security envelope at its sealing surfaces. Law enforcement officers and/or law enforcement employees must return all deliberately opened SLED Drug Evidence Security Envelopes and all related SLED Drug Analysis Request Forms, Initial Custody Forms, and Subsequent Change of Custody Forms to SLED for disposition. Law enforcement officers or law enforcement employees who open any sealed SLED Drug Evidence Security Envelope shall prepare a written explanation of the reason(s) for such opening and verify the description and condition of the evidence, noting whether any changes in the evidence were found or adjustments were made, or whether the evidence was resealed in its original condition. The law enforcement officer or law enforcement employee shall place this written explanation together with the other written records created concerning this seizure of controlled substance(s). Evidence custodians may rely on the description of evidence said to be contained in the drug evidence security envelope by the seizing officer so long as the envelope is properly sealed and undamaged. Evidence custodians shall not open a sealed and undamaged drug evidence security envelope to verify its contents.

N. Each evidence custodian who prepares or causes to be prepared a Subsequent Change of Custody Form shall record the control number of the SLED Drug Evidence Security Envelope containing the controlled substance(s).

O. Seizing officers and evidence custodians shall in all other evidence handling activities associated with the SLED Best Evidence system use the same procedures as set forth in R.73-80 and R.73-90 except that the signatures of the seizing officer and all evidence custodians must be properly notarized.

HISTORY: Added by State Register Volume 18, Issue No. 4, eff April 22, 1994.

73-110. Duties of Criminalists.

A. The criminalist shall safeguard or cause to be safeguarded all Initial Custody and Subsequent Change of Custody Forms which accompany the controlled substance evidence submitted for scientific analysis. These Forms shall be made available upon request to the Solicitor.

B. The examining criminalist shall carefully examine all sealed SLED Drug Evidence Security Envelopes which are transmitted to the Forensic Laboratory. The criminalist shall note any damage, imperfection, or indication of tampering evident on the SLED Drug Evidence Security Envelope.

C. Criminalists shall open the SLED Drug Evidence Security Envelope only by cutting the bottom of the envelope and shall place an identifying mark on each envelope.

D. The criminalist shall take possession of suspected controlled substance evidence and cause such evidence to be accurately described, weighed, and/or counted and an inventory thereof prepared.

E. The criminalist shall perform physical and/or chemical testing on the controlled substance evidence to determine qualitatively either the indication of or the confirmation of controlled substance(s).

F. After the conclusion of all Forensic Laboratory analyses, the criminalist shall re-package, re-seal, and mark the remaining controlled substance evidence in a manner such that surreptitious tampering with or alteration of the controlled substance evidence can be detected.

G. After the conclusion of Forensic Laboratory analysis and re-packaging, the criminalist shall return or cause to be returned to the submitting law enforcement agency all remaining controlled substance evidence.

H. If controlled substance(s) were transmitted to the Forensic Laboratory in a SLED Drug Evidence Security Envelope, criminalists shall return or cause to be returned the SLED Drug Evidence Security Envelope together with the controlled substance(s) that were received therein.

I. At any time before or after the conclusion of Forensic Laboratory analysis, upon receipt of a written authorization signed by the chief law enforcement official of the seizing agency or his or her designee, the criminalist shall destroy or cause to be destroyed the controlled substance evidence in a manner prescribed elsewhere in this article. The written authorization for destruction must set forth:

- (1) The defendant's name or names
- (2) The date of seizure
- (3) The ORI number of the seizing agency
- (4) The seizing agency case number
- (5) A description of the controlled substance evidence to be destroyed
- (6) A statement that the controlled substance evidence is not needed for prosecution and may be destroyed
- (7) Signature of chief law enforcement officer or designee
- (8) Legibly printed or typewritten name of chief law enforcement officer or designee

J. At any time before the commencement of Forensic Laboratory analysis, the chief law enforcement officer of the seizing agency or his or her designee may request in writing the return of any controlled substance evidence submitted for chemical analysis. The criminalist shall return or cause to be returned any controlled substance evidence so requested and need not weigh, count, or inventory the contents of a sealed container prior to its return

HISTORY: Added by State Register Volume 18, Issue No. 4, eff April 22, 1994.

73–120. Controlled Substance Evidence Forensic Testing Methods and Results.

A. Forensic Testing Methods or protocols can yield results which either indicate the presence of a controlled substance or confirm the presence of a controlled substance.

B. When an indicative test is performed, a result of controlled substance(s) indicated means that the presence of a controlled substance is suggested and highly probable but not absolutely proven. An indicated result is ordinarily sufficient to support probable cause.

C. When a confirmatory test is performed, a result of controlled substance confirmed means that the presence of a controlled substance is certain. A confirmatory result is ordinarily sufficient for the proof of the matter.

D. Nothing in this article shall apply to the toxicological examination and testing of body fluids and tissues for the presence of alcohol or controlled substances and their metabolites.

E. Nothing in this article shall apply to breath alcohol analysis.

HISTORY: Added by State Register Volume 18, Issue No. 4, eff April 22, 1994.

73–130. Storage of Controlled Substance Evidence.

A. Controlled substance evidence must be stored in a secure repository.

B. The secure repository must be accessible only by a limited number of authorized persons.

C. Inventory control procedures must be employed so that a proper accounting can be provided for all items of controlled substance evidence that are stored within the secure repository.

D. All controlled evidence stored in the secure repository shall be securely packaged so that individual items of controlled substance evidence from one case do not become mixed with or contaminated by evidence from any other case.

E. The exterior of each large outer package of controlled substance evidence shall be plainly and legibly marked with unique identification such as the law enforcement agency case number, defendant's name, Forensic Laboratory case number, or any other unique identifier.

F. The use of drop boxes is permitted.

G. If a drop box is used, the chain of custody record must indicate its use.

H. If a drop box is used, only properly marked sealed packages of controlled substance evidence may be placed in the drop box; no loose controlled substances may be placed therein.

HISTORY: Added by State Register Volume 18, Issue No. 4, eff April 22, 1994.

73-140. Preparation of Controlled Substance Evidence for Destruction.

A. If controlled substance evidence becomes an exhibit at trial, it shall be handled as ordered by the South Carolina Supreme Court or the Trial Court.

B. At the conclusion of trial, a complete accounting must be made of all exhibits of controlled substance evidence and paraphernalia and only the controlled substance exhibits and paraphernalia shall be placed into a sealed secure container. Money, firearms, and other evidence must not be sealed in the same secure container with the controlled substance exhibits.

C. Unless ordered to the contrary by the Court, all controlled substance evidence and paraphernalia shall be returned to the seizing officer or to the authorized representative of the seizing officer's law enforcement agency after the conclusion of the trial or plea. The clerk of court shall prepare a transfer document which shall contain at least the following information:

(1) The court case number

(2) The court case caption (State v. defendant's name)

(3) A description of the controlled substance evidence and paraphernalia being returned to the law enforcement agency representative or seizing officer.

(4) Printed name and signature of the Clerk of Court or clerk's staff member relinquishing the controlled substance evidence and paraphernalia.

(5) Printed name and signature of the law enforcement officer or law enforcement employee receiving the controlled substance evidence and paraphernalia.

After the above-described Transfer Document is signed by both parties, the controlled substance evidence and paraphernalia shall be turned over to the law enforcement officer or employee for transportation, storage or destruction. The Clerk of Court shall maintain a copy of the Transfer Document in the case file or with any other exhibits retained by the court in relation to that case.

D. After it is determined that controlled substance evidence, controlled substance evidence exhibits, or paraphernalia are no longer needed for evidentiary purposes, the chief law enforcement officer of the seizing agency, his or her designee, or the clerk of court shall create a written record of the controlled substance evidence which is being readied for destruction which shall be called the destruction record and which must contain as much of the following information as is available:

(1) The court case number

(2) The court case caption (State v. defendant's name)

(3) The law enforcement agency case number

(4) The Forensic Laboratory case number

(5) A description of the controlled substance evidence being readied for destruction.

(6) A description of any items which were not controlled substance evidence that were found during the preparation for destruction.

(7) The names of the persons who are preparing the controlled substance evidence for destruction.

(8) The date on which the controlled substance evidence was prepared for destruction.

(9) Date of destruction (to be filled in later).

(10) Destroying officials' names (to be filled in later).

E. Any items of evidence which are not controlled substance(s) and paraphernalia must be separated from the controlled substance(s) during the preparation for destruction and a proper disposition thereof made as provided by statute, order, or agency policy.

F. All preparation for destruction activities which require that controlled substance evidence be handled, described, repackaged, or in any way physically present must be conducted by not less than two persons, each in the presence of the other (Two Person Rule).

G. After all items of controlled substance evidence are prepared for destruction as previously described, they should be sealed within a flammable container and transported to the destruction site. The Two Person Rule does not apply to the transportation of sealed containers. Unsealed controlled substance evidence transportation requires two persons.

H. Controlled substance evidence should remain in the custody and control of the transporting law enforcement officer, law enforcement employee until it is destroyed.

I. The date of destruction and the name or names of the persons in attendance during the destruction of the controlled substance evidence shall be added to the destruction record created in Section C.

HISTORY: Added by State Register Volume 18, Issue No. 4, eff April 22, 1994.

73-150. Destruction of Controlled Substance Evidence.

A. Controlled substance evidence and paraphernalia may be destroyed in any lawful manner which renders it unsuitable for use or abuse thereafter.

B. Controlled substance evidence must never be destroyed by flushing into a sewage treatment system or a septic tank system.

C. All controlled substance evidence except marijuana is hazardous waste and must be destroyed by a disposal facility or incinerator approved by the South Carolina Department of Health and Environmental Control or its successors.

D. Paraphernalia which is devoid of controlled substance evidence and biohazardous contamination may be disposed of as ordinary trash.

E. Paraphernalia which is devoid of controlled substance evidence and which has been contaminated by human blood or body fluids must be disposed of as biohazardous material according to the law enforcement agency's bloodborne pathogen control plan.

F. For specific information on the proper way of destroying materials, the current Federal and State regulations and requirements for the disposal of waste and controlled substances should be consulted.

HISTORY: Added by State Register Volume 18, Issue No. 4, eff April 22, 1994.

ARTICLE 7

SEX OFFENDER REGISTRY

73-200. Definitions.

Whenever used in these regulations, unless expressly stated otherwise, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereafter set forth or indicated:

A. "CJICS" means the Criminal Justice Information and Communications System which is comprised of the Criminal Records Repository, the Uniform Crime Reporting Department, the Data Processing Center and the Statewide Telecommunications Network. It is managed and maintained by the South Carolina Law Enforcement Division for the express purpose of exchanging timely, accurate and complete information between law enforcement and criminal justice entities.

B. "In-State Offender" means any person, regardless of age, who has been convicted in this State of any offense authorized by state law to be included in the Registry.

C. "Out-of-State Offender" means any person, regardless of age, who has been convicted in another state of any offense which can be reasonably interpreted as corresponding to those provided for in the South Carolina Code of Laws.

D. "Pre-Registration" means the completion of an automated form designed by the South Carolina Law Enforcement Division by either the Department of Corrections, the Department of Juvenile Justice, or the Department of Probation, Parole and Pardon Services which includes vital information to expeditiously notify the sheriff of the county in which the convicted sex offender will reside.

E. "Registration" means the act, by an offender, of reporting to the sheriff's office of the county in which he/she will reside in order to provide all information as required by the South Carolina Law Enforcement Division.

F. "Registry" means the system described in these regulations consisting of both automated information maintained within the Criminal Justice Information and Communications System by the South Carolina Law Enforcement Division and any documents and related information maintained by local sheriffs' offices.

G. "EPSO" means the entry screen used to include information relative to a convicted sex offender being pre-registered in the automated Sex Offender Registry.

H. "ERSO" means the entry screen used exclusively by a sheriff to register a convicted sex offender in the Sex Offender Registry.

I. "SCSO" means the entry screen used when a convicted sex offender who has already been entered into the Registry, changes county of residence. The use of this screen will place the offender in an inactive status in the county he/she is leaving.

J. "Resident" means any person remaining in South Carolina for a period of twenty-eight (28) consecutive days. This will include any person having either permanent or temporary lodging, engaged in any activity, including, but not limited to, earning a salary, attending school or college, recreation, visitation and the like.

K. "Screen" means any computer data entry screen designed to capture, transmit, modify or store information required for the operation of the Registry.

L. "SLED" means the South Carolina Law Enforcement Division.

HISTORY: Added by State Register Volume 20, Issue No. 7, eff July 26, 1996.

73-210. Information to be Gathered and Mandatory Reporting by the Department of Corrections, the Department of Juvenile Justice and the Department of Probation, Pardon and Parole Services.

A. The Department of Corrections and the Department of Juvenile Justice will photograph all offenders prior to their release and will maintain these photographs on file for the life of the offender. If an offender is re-incarcerated within the Department of Corrections, the offender's Registry photograph will be updated before he or she is released.

B. The South Carolina Department of Corrections and the South Carolina Department of Juvenile Justice will, not less than five (5) days nor more than thirty (30) days prior to the release of any sex offender, notify the sheriff of the county in which the offender will reside, except that when an offender is granted parole by the South Carolina Parole Board, the Department of Corrections or the Department of Juvenile Justice will notify the appropriate sheriff as soon as either department is notified of the parole of an offender.

C. The Department of Probation, Parole and Pardon Services will fingerprint, photograph and obtain descriptive information on any offender sentenced to probation within five (5) days of the sentencing and will photograph each offender annually as long as he or she is under their jurisdiction.

D. The South Carolina Department of Probation, Parole and Pardon Services will notify the sheriff of the affected county within five (5) days of any offender being sentenced to probation by the courts.

E. Mandatory reporting by either the Department of Corrections, the Department of Juvenile Justice or the Department of Probation, Parole and Pardon Services to the county sheriff in which the

offender will reside will be accomplished using the screen entitled "Enter Sex Offender Pre-registration" (EPSO), and will include in-state and out-of-state offenders under the jurisdiction of any of these agencies.

HISTORY: Added by State Register Volume 20, Issue No. 7, eff July 26, 1996.

73-220. Procedures to be Utilized by Sheriffs' Offices When Registering a Convicted Sex Offender.

A. Initial Registration.

(1) A sheriff, when registering an offender, will obtain the information, at a minimum, set forth in Section 73-76 of these regulations.

(a) This information will be entered utilizing the screen entitled "Entry Registration of Sex Offender" (ERSO).

(b) This information will be transmitted to SLED by means of the CJICS computer terminal which services that sheriffs department.

(c) The information will be transmitted to SLED not later than twenty-four (24) hours after the registration of an offender.

(d) A copy of this information will be kept on file at the sheriffs department until updated at the time of the annual re-registration of the offender as set forth in Section 73-76 of these regulations.

(e) The sheriff will secure a complete set of fingerprints and will photograph the offender.

(1) When registering an offender from out-of-state, the sheriff will secure two (2) complete sets of fingerprints. One (1) set of fingerprints will be retained by the sheriff; the other set will be forwarded to SLED not later than forty-eight (48) hours after securing such information for inclusion in the statewide automated fingerprint identification system.

B. Annual Re-registration.

(1) At the time of the annual re-registration of each offender, on or before each anniversary date of the initial registration, the sheriff will obtain the information set forth in Section 73-76 of these regulations.

(a) This information will be entered utilizing the screen entitled "Entry Registration of Sex Offender" (ERSO).

(b) This information will be transmitted to SLED by means of the CJICS computer terminal which services that sheriffs department.

(c) This information will be transmitted to SLED not later than twenty-four (24) hours after the re-registration of the offender.

(d) A copy of this updated information will be kept on file at the sheriffs department, until replaced with subsequent updated information, for the life of the offender.

(2) The sheriff will secure new fingerprints of the offender should those on file become illegible.

(3) The sheriff will secure an updated photograph of the offender.

HISTORY: Added by State Register Volume 20, Issue No. 7, eff July 26, 1996.

73-230. Confidentiality of Information Contained in the Registry.

A. Dissemination of Information.

(1) Information maintained in the Registry will be disseminated in accordance with adopted state law.

B. Security of Information.

(1) The Department of Corrections, the Department of Juvenile Justice, Department of Probation, Parole and Pardon Services, and county sheriffs will adopt appropriate measures to ensure security of all Registry information.

(2) SLED will adopt necessary procedures which will allow only authorized agencies to receive information maintained in the Registry.

HISTORY: Added by State Register Volume 20, Issue No. 7, eff July 26, 1996.

73–240. Disposition of Obsolete Data.

A. SLED will ensure that all information maintained in the Registry is as up-to-date and accurate as possible.

(1) Deceased Offender.

(a) Once it has been determined that an offender is deceased, SLED will remove that offender from active status in the Registry and notify the county sheriff, the Department of Corrections, the Department of Juvenile Justice and the Department of Probation, Parole and Pardon Services.

HISTORY: Added by State Register Volume 20, Issue No. 7, eff July 26, 1996.

73–250. Status Change of Registered Offender.

A. Offender Moves to Another County.

(1) A sheriff, when notified that an offender is moving to another county in South Carolina, will place the offender on an inactive status in the Registry.

(a) This information will be entered utilizing the screen entitled “Status Change Sex Offender” (SCSO).

(2) The sheriff of the county to which the offender is moving will, at the time of registration, ensure that the offender is on inactive status.

(a) If the offender has not been placed on inactive status, the sheriff of that county will place the offender on inactive status by using the SCSO entry screen.

(b) When that sheriff has ensured that the offender is on inactive status, the offender will then be entered into the Registry as a new entry.

(1) This information will be entered utilizing the two (2) entry screens entitled “Enter Sex Offender Pre-registration” (EPSO) and “Entry Registration of Sex Offender” (ERSO).

B. Offender Moves to Another State.

(1) A sheriff, when notified that a registered offender is moving to another state, will update the offender’s record in the Registry to inactive status.

(a) This information will be entered utilizing the entry screen entitled “Status Change Sex Offender” (SCSO).

(2) A sheriff will notify the receiving state of the offender’s relocation.

HISTORY: Added by State Register Volume 20, Issue No. 7, eff July 26, 1996.

73–260. Forms and Information to Be Provided by Offender.

A. Forms.

(1) Each sheriff’s office is authorized to develop a unique form in order to collect information when registering a convicted sex offender, however, the information collected must, at a minimum, include the data set forth below.

(2) The use of the prescribed screens for entering and modifying information comprising the Registry and the transmission of this data to SLED, will satisfy reporting requirements by county sheriffs.

B. Information to be provided by Offender.

(1) Full name including last name, first name and middle name;

(2) Race;

(3) Sex;

(4) Date of birth, including month, day and year;

(5) Height;

(6) Weight;

(7) Hair color;

(8) Eye color;

(9) Skin tone;

- (10) Blood type;
- (11) Aliases or other names or nicknames;
- (12) Social Security Number;
- (13) Driver's license number or operator's license number and expiration date;
- (14) Full description of all scars, marks or tattoos;
- (15) Full description of all physical deformities or amputations;
- (16) Full description of all speech impediments and peculiarities;
- (17) Complete address of all residences where the offender may stay for more than two (2) days including city, street, house or apartment number and zip code;
- (18) Telephone number of all residences where an offender may stay for more than two (2) days;
- (19) The full name, address and telephone number of the offender's next of kin;
- (20) The full name, address and telephone of the offender's employer;
- (21) Full descriptions of all motor vehicles owned by the offender, to include license number, vehicle identification number, make, model and color;
- (22) Miscellaneous numbers, e.g., selective service number;
- (23) Specific sex crimes of which the offender has been convicted.

HISTORY: Added by State Register Volume 20, Issue No. 7, eff July 26, 1996.

73-270. Retention of Information Collected.

A. Information collected by sheriff's office.

(1) Information collected by a sheriff's office on a convicted sex offender may be destroyed:

(a) Once an offender is placed on an inactive status and a sheriff confirms that the offender has been included in the South Carolina Registry by another sheriff's office, or the offender transfers to another state;

(b) Once an offender is deceased.

B. Information collected by the Department of Corrections, the Department of Juvenile Justice, the Department of Probation, Parole and Pardon Services and SLED will be in accordance with established document retention schedules of each affected agency.

HISTORY: Added by State Register Volume 20, Issue No. 7, eff July 26, 1996.

ARTICLE 8 CONCEALABLE WEAPONS PERMIT

(Statutory Authority: 1976 Code § 23-31-210)

73-300. Course and Instructor Qualifications Guidelines.

The South Carolina Law Enforcement Division shall promulgate regulations containing general guidelines for courses and qualifications of instructors of applicants for concealable weapons permits.

A. Qualifications and Certification of Instructors

(1) Any person desiring to conduct training of concealable weapons permit (CWP) applicants must apply to SLED for certification as a CWP Instructor, undergo a criminal record check conducted by SLED, and must receive written notice of certification and a certification number from SLED, prior to conducting such training.

(2) The instructor candidate must submit a completed application form supplied by SLED. The form will include the information necessary to establish the instructor's qualifications and competency, including the names, locations, dates and providers of instructor training, copies of certificates

documenting successful completion of instructor training and other information necessary to conduct the required criminal record checks.

(3) Instructors' certification issued pursuant to these Regulations will expire three (3) years from the date of issuance. Upon expiration of his certification, training conducted by the instructor will not be accepted as proof of training on concealable weapons permit applications. The instructor must apply to SLED, on a form prescribed by SLED, for renewal of his certification.

(4) Each certified instructor must, during the three (3) year certification period, attend at least one (1) SLED-approved concealable weapons permit instructor seminar. Attendance at the seminar must be documented in the instructor's application for renewal of certification. Failure to comply will result in denial of certification renewal.

B. Required Submissions

(1) The prospective instructor must submit a copy of a detailed lesson plan comprising the course to be taught. The course must contain all elements required in S.C. Code § 23-31-210.

(2) The applying instructor must receive, from SLED, written notice of approval of the lesson plan prior to conducting any training that will be submitted as proof of training by applicants for concealable weapons permits.

C. Denial of Certification and Appeal

(1) SLED may approve or deny an application for instructor certification.

(2) Upon denial, the applicant may, within thirty days, submit a written appeal to the agent in charge of the SLED Training Department, amending his application to conform to these regulations. The application will be reconsidered and may be approved or denied. No reconsideration will be granted for falsification of the application.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

73-310. Denial of Concealable Weapons Permit.

A. Training by a Non-certified Instructor

(1) An application for a concealable weapons permit by a person for whom training by a certified instructor is required and who received the training from an instructor failing to meet the requirements of these Regulations will be denied for failure to provide proof of training as required by law.

(2) An applicant may request reconsideration of a permit denial because of training by a non-certified instructor by submitting amended proof of training within thirty days of the denial of his application.

B. Failure of Instructor to Meet Requirements

(1) An application for a concealable weapons permit by a person for whom training by a certified instructor is required, and whose instructor fails to report training procedures and results as required by these Regulations will be denied.

(2) False information or documentation of training or other false information concerning an application, may result in denial of the application.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

73-320. Training.

A. Course Content

(1) Training courses to be used as proof of training by applicants for concealable weapons permits must address, in a manner approved by SLED, all requirements of law.

(2) Each course must be conducted in strict conformity with the lesson plan submitted by the instructor of that course and approved by SLED.

B. Proof of Classroom Training

(1) The instructor must administer a written post-training test written and approved by SLED. The applicant must earn a minimum score of 70%.

(2) The instructor must complete and sign the training certification section of the application form for each applicant trained.

(3) The instructor must record each applicant's test score in the space provided in the training certification section of the application form.

C. Proof of Range Training

(1) The instructor must monitor performance and record a score for each applicant's performance, on a course of fire approved by SLED.

(2) The CWP applicant must earn a minimum score of 70%.

(3) The instructor must record each applicant's range score in the space provided in the training certification section of the application form.

D. Training Records

(1) The instructor must retain the written test answer sheet and a record of the range score for each applicant trained for a period of four (4) years from the date of training.

(2) All training records must be open to inspection by agents of SLED.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

73-330. Weapons Safety.

A. Inspection of Weapons

(1) The instructor will inspect each weapon used by an applicant to verify that it is in good repair and safe condition.

(2) The instructor will record and maintain in his training records the information required by law relating to the weapon(s) used by an applicant.

B. Disapproval of Weapons

(1) The instructor will refuse to provide training to an applicant using a weapon judged by the instructor to be unsafe or illegal.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

73-340. Violations.

A. Violations by Instructor-Applicants or Certified Instructors

(1) A violation of any of the provisions of these regulations may result in denial, suspension or revocation of instructor certification.

(2) Falsification of any document or information submitted in accordance with these regulations or S. C. law may result in denial, suspension or revocation of instructor certification.

B. Violations by Concealable Weapons Permit Applicants

(1) A violation of any of the provisions of these regulations by an applicant for a concealable weapons permit may result in the denial, suspension or revocation of a permit.

(2) Falsification of any document or information submitted in accordance with these Regulations or S. C. law may result in denial, suspension or revocation of a permit.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

**ARTICLE 9
PRIVATE SECURITY AND PRIVATE INVESTIGATION BUSINESSES**

(Statutory Authority: 1976 Code § 40-18-30)

73-400. Definitions.

1. *Business license* means a license from SLED to operate a private investigation or private security business or entity, to solicit such business, perform or employ others to perform the activities specific to that business and to charge fees for performance of such activities.

2. *Registration* means the registration with SLED of a person to be employee by the licensed business to perform the specific activities of the business. Registration does not authorize the operation of a business.

3. *Principal* means the chief executive or other person employed and authorized to exercise day-to-day operational direction and control of the practices and employees of the entity.

4. *Licensee* means a person who holds a valid license to conduct a business authorized in Chapter 18, Title 40, South Carolina Code of Laws.

5. *Employee* means a person paid by a licensee to perform duties assigned by the licensee and under the supervision, direction and control of the licensee.

6. *Manager* means an employee, other than line supervisor, assigned general day-to-day operational management responsibilities to direct the affairs and employees of the employing entity.

7. *Qualifying experience* means experience as an employee in one or more of the following circumstances:

A. For a license to operate a private security entity: a minimum of two years of full time employment as a sworn police officer by a public law enforcement agency or as a manager of a licensed private security entity or other security program as approved by SLED.

B. For a license to operate a private investigation business: a minimum of three years of full time employment as a sworn police officer employed by a public law enforcement agency in an investigative capacity or an equivalent amount of experience, as determined by SLED, while a registered employee of licensed private investigation businesses. In its discretion, SLED may approve an equivalent period of other occupational experience that demonstrates the use of knowledge, skills, abilities, practices and techniques constructively similar to those necessary to provide, in the opinion of SLED, competent investigative services to the public.

C. For applicants for licenses to operate private investigation businesses, SLED will grant credit toward required experience, in the following amounts, to an applicant who has earned a certificate or degree from an educational institution accredited by a nationally recognized accreditation authority recognized by SLED:

Certificate for study of private investigations6 months
Associates Degree6 months
Bachelor's Degree	1 year
Graduate Degree	1.5 years

D. The applicant must supply information required by SLED to document employment experience.

8. *Firearm* means a handgun unless specific approval is provided in writing by SLED for use of other types of firearms at specific sites.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-401. Eligibility for Business License; Principal; Private Security; Private Investigations.

A business license must be issued only to a principal of the applicant business.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-402. Principal; Disclosure of Identity; Private Security; Private Investigations.

The identity of each principal of an applicant or licensed entity must be fully disclosed as part of each new and renewal application on forms furnished by SLED.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-403. Principal and Employees; Character; Private Security; Private Investigations.

Principals of applicant and licensed entities must be of suitable character and background, as defined in Chapter 18, Title 40, South Carolina Code, except for experience requirements. Failure of a

principal to meet and maintain such suitability constitutes cause for suspension or revocation of the business license and registration of the principal or employee.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73–404. Licensee and Business Names; Requirements; Private Security; Private Investigations.

All applications for licenses applied for pursuant to South Carolina Code Chapter 18, Title 40 must bear the same individuals' and business name(s) as the name(s) on any other license(s) or permit(s) issued to the same individual(s) or business by any authority.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73–405. Termination or Death of Licensee; Private Security; Private Investigations.

1. Upon termination of a licensee, a representative of the entity must immediately notify SLED. The entity will be immediately designated by SLED as *conditionally licensed*.

2. The chief executive or other principal of the entity must, within five calendar days of the date of termination of the licensee, submit an application for licensing of a new principal and the appropriate application fee.

3. The entity may operate as conditionally licensed for up to twenty calendar days after receipt of the new application by SLED.

4. In the event of the death of a licensee of a licensed business, a representative of the business must immediately notify SLED. The business will be designated by SLED as *conditionally licensed* and may continue operations.

5. The personal representative of the estate of the deceased licensee must furnish to SLED a notice of appointment by the probate court and may continue the operation of the business in accordance with directions of the court.

6. During the period of operation, licenses for such businesses must be renewed upon expiration using the standard license renewal procedure, including payment of license fees.

7. Authority of the personal representative to operate the licensed business without securing a new license will expire with the entry of an order by the court approving settlement, closure or distribution of the estate and discharging the personal representative, or an order terminating the personal representative or the proceeding.

8. An applicant for a license to continue operation of the business must meet all relevant qualifications to hold the license or SLED must deny the application.

9. Failure to comply renders the business license invalid and constitutes cause for revocation of the license.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73–406. Business and Trade Names; Private Security; Private Investigations.

1. Business and trade names used by licensed entities must be approved by SLED.

2. Materials, equipment, supplies and advertising used in connection with the entity may not imply affiliation with a law enforcement or other government agency.

3. The words "police", "enforcement", "bureau", or "public safety" may not be used in connection with a licensed entity.

4. The word "investigation(s)" may not be used in connection with a business unless the entity is licensed as a private investigation business.

5. The words "security" or "protection" may not be used in connection with a business unless the entity is licensed as a private security entity.

6. Unless otherwise approved by SLED, licensed entities are prohibited from using or advertising any business name other than the name shown on the license issued by SLED.

7. All paid advertisement to the general public by a licensed company must include the SLED license number issued to the licensee. Business cards are exempt from this requirement.

8. Names and materials existing and/or approved by SLED before the effective date of this regulation are exempt from these restrictions for the life of the license, if renewed as required by law.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-407. Registration Cards; Private Security; Private Investigations.

1. Private security and private investigation employee registration cards must display a recent and recognizable facial photograph of the registered individual, must be fully laminated and must legibly display all information placed on the card by SLED.

2. Registration cards that are altered or otherwise not in compliance with these requirements are invalid.

3. Registration cards issued to a private investigator authorize the performance of private investigation activities only while the registered individual is an employee of a licensed private investigation business and is performing activities assigned by his employer.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-408. License and Registration Period; Renewal; Private Security; Private Investigations.

1. Licenses and registrations issued by SLED are valid for one year from date of issue.

2. Failure to file a timely application for renewal renders the license or registration card invalid and, unless otherwise authorized by SLED, the holder is no longer licensed, registered or authorized to conduct the licensed or registered activity.

3. Application for renewal of licenses and registrations must be received by SLED at least thirty days, but not more than sixty days, prior to the date of expiration.

4. Required fees must be received with the application form and must be in the form of a valid business check, cashier check or money order.

5. Payment with a check that is dishonored by a financial institution will prevent issuance of a license or registration or result in its immediate suspension. The following fees are applicable and are non-refundable:

A. Private Security Contract/Proprietary Business:	\$350.00 annually
B. Private Security Officer Registration:	
1. armed:	\$110.00 annually
2. unarmed:	\$65.00 annually
3. replacement-lost or destroyed card:	\$20.00
C. Private Investigation Business	\$350.00 annually
D. Private Investigation	
1. employee registration:	\$350.00 annually
2. replacement-lost or destroyed card:	\$20.00

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-409. Law Enforcement Officers; Private Security; Private Investigations.

1. Except as permitted herein, persons holding commissions or appointments that confer law enforcement authority and administrative employees of public law enforcement agencies may not hold private security or private investigation licenses or registrations.

2. Officers of the South Carolina Department of Corrections who hold limited-authority law enforcement commissions, as defined by the South Carolina Criminal Justice Academy, are exempt from this restriction for purposes of employment as private security officers.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-410. Surety Bond Cancellation; Private Security; Private Investigations.

1. Cancellation of a required surety bond will result in an immediate designation of *conditionally licensed* for the business.

2. The licensee must, within ten (10) days of notification of termination of bond, submit to SLED a new certificate of bond.

3. Failure to comply will render the company license invalid and the company must immediately cease the activities for which it is licensed.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-411. Display of Blue Lights on Private Security Vehicles.

1. Display of blue lights on security vehicles is prohibited unless authorized in writing by SLED pursuant to the following procedure:

A. The owner or designee of the owner of the property being patrolled must comply with the provisions of Article 45, Chapter 5, Title 56, South Carolina Code of Laws, concerning regulation of traffic on private roads.

B. The owner or designee of the owner of the property being patrolled must submit to SLED documentation of such compliance and a written request to display and use blue lights on the security vehicles to be used on the property.

C. The licensee of the private security business must have written approval from SLED before use of blue lights on the security vehicles to be used on the property.

2. Blue lights approved for use on private security vehicles may be displayed only on vehicles properly marked in accordance with R. 73-412 and on the property specifically described in the application for use of blue lights and otherwise must be removed from the vehicle or covered so as to be protected from public view.

3. Display of blue lights on private security company or other vehicles used by a private security officer, other than as approved by SLED, is prohibited.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-412. Private Security Vehicle Markings.

1. Unless otherwise approved in writing by SLED, vehicles used by private security officers for patrol and enforcement activities must be clearly marked with the word "security" and must display the name or symbol identifying the security company.

2. In its discretion, SLED may approve exemptions from this requirement upon written request submitted to SLED by a contract private security company principal and a representative of the client company citing specific special circumstances or by an official of the company holding a proprietary private security license.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-413. State Uniform Traffic Summons Tickets; Private Security.

1. Private security officers may not possess or issue State Uniform Traffic Summons tickets except as approved by SLED and the South Carolina Department of Public Safety. No such approval will attend unless the owner or designee of the owner of the private property involved is in compliance with the following procedure:

A. The owner or designee of the owner of the property being patrolled must be in compliance with the provisions of Article 45, Chapter 5, Title 56, South Carolina Code of Laws, concerning regulation of traffic on private roads;

B. The owner or designee of the owner of the property being patrolled must submit to SLED documentation of compliance with all requirements of law concerning enforcement of State traffic laws on private roads and must have written approval of SLED and the South Carolina Department of Public Safety to possess and issue State Uniform Traffic Summons tickets on the private property.

C. The licensee of the private security business must have written approval from SLED for use of blue lights on security company vehicles on the property.

2. State Uniform Traffic Summons tickets used pursuant to this authority may not be issued for any offense if such issuance is not in compliance with provisions of South Carolina Code Section 56-5-6310, South Carolina Code Section 56-7-10, and South Carolina Code Section 56-7-15.

3. Private security officers authorized by their employing entity to issue State Uniform Traffic Summons tickets must receive training by their employer sufficient to ensure proper knowledge of the lawful use of such tickets.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-414. Private Tickets; Private Security.

1. Private security officers must not issue written instruments initiating any punitive action except to those persons described herein:

A. a person who is a signatory to a written acknowledgement of the rules and potential penalties related to the cited behavior;

B. an employee of a company whose representative is a signatory to such acknowledgement;

C. a visitor to the property who has been given constructive notice of such rules and penalties.

2. Signed written acknowledgements required by this regulation must be maintained on the property and available for inspection by SLED.

3. Constructive notice may be established by furnishing written materials to property owners and others entering the property or by posting signage identifying behavior subject to citation and potential penalties for violation.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-415. Arrest Reporting; Private Security.

Arrests made by private security officers must be reported to the law enforcement agency of primary jurisdiction immediately after the suspect and the scene of the incident are secured.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-416. Transportation of Prisoners; Off-Property Authority; Private Security.

Private security officers exercising law enforcement authority of South Carolina Code Chapter 18, Title 40 must not transport prisoners or pursue suspects off the protected property.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-417. Cooperation with Law Enforcement Agencies and Officers; Private Security.

Private security officers must fully cooperate in the prosecution and disposition of cases resulting from activities of the security officer, including but not limited to the furnishing of statements, provision of evidence, bail or bond hearings and court appearances. Private security officers are prohibited from hindering, obstructing or failing to cooperate with an investigation or other official law enforcement matter.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-418. Discovered Criminal Activity; Private Security.

1. Private security officers are required to immediately secure the scene of a discovered crime on protected property, to immediately notify the law enforcement agency of jurisdiction, and to report suspected criminal activity on the protected property to the primary law enforcement agency of jurisdiction as soon as reasonably possible.

2. Private security officers must receive training by their employer sufficient to ensure adequate knowledge to properly and competently secure and preserve a crime scene.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-419. Training; Private Security Company Certified Training Officers.

1. Each licensed private security business must employ or retain by other arrangement a SLED-certified private security training officer.

2. The training officer must have successfully completed a course of training specified by SLED or be otherwise approved by SLED.

3. Training officers must accurately certify to SLED, in the manner required, the results of training.

4. To maintain certification, training officers must successfully complete periodic training as required by SLED.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-420. Training; Private Security Officers.

1. Each candidate for registration as a private security officer must qualify by successfully completing a basic training course approved by SLED.

2. The standard basic training course consists of four or more hours of training by a certified private security company training officer and must consist of the latest material provided to the trainer by the South Carolina Technical College Private Security Training School. Such basic training must be completed, a written examination administered and scored, accurate results of the testing documented in the employer's files, and application for registration received by SLED before the security officer begins duties at a client site. The required written examination must be designed by the company certified training officer and must consist of questions taken from the lesson plan performance objectives used by the trainer.

A. A candidate who successfully completes such basic training will, upon issuance of a registration card by SLED, be designated as a *Registered Private Security Officer*.

3. An alternative basic training course approved by SLED may be substituted for standard basic training. For consideration of approval by SLED, an alternative training course must be developed and conducted by an agency or educational institution accredited by a nationally recognized accreditation authority recognized by SLED.

A. A candidate who successfully completes such alternative basic training will, upon employment by a licensed private security entity, qualify for registration by SLED as a *Certified Private Security Officer*.

B. The security officer must complete an additional minimum two hours of orientation and training by a certified company training officer. The training must be sufficient to ensure:

1. the safe, accurate and proper use of equipment to be used by the security officer,
2. knowledge adequate to properly and competently perform the duties and responsibilities specific to the assignment of the officer, and
3. additional topics specified by the employer.

3.¹ In addition to the training required herein, a private security officer who will be authorized to carry a firearm must, before being issued, authorized or permitted to carry a firearm on duty, successfully complete a course approved by SLED, consisting of a minimum of four hours of training by a private security company certified training officer or law enforcement firearms instructor currently certified by the South Carolina Criminal Justice Academy, in the safe and proper use of the specific type(s) of firearm(s) to be issued or carried. Such training must:

A. adhere to the lesson plan(s) and course(s) of fire provided by the South Carolina Technical College Private Security Training School, and

B. include a demonstration of the safe and competent use of the firearm on a range supervised and documented by a private security company certified training officer or law enforcement firearms instructor currently certified by the South Carolina Criminal Justice Academy.

4. Unless otherwise specifically approved in writing by SLED at a specific site, private security officers are prohibited from possessing or using rifles or shotguns in connection with private security activities.

5. Accurate and complete documentation of all training of each private security officer must be retained by the employer and submitted to SLED as required. Complete and legible copies of each employee's training records must be furnished by the employer to the employee and must be retained

¹ So in original. State Register Volume 30, Issue No. 6, eff June 23, 2006 promulgated two subsections, both designated as subsection 3.

by the employee as his permanent training record. Upon request by SLED, training documentation must be made available by the employing entity and the employee for inspection.

6. Upon change of employer, a registered private security officer must furnish to the new employer documentation of all training received. If such documentation is not available and cannot be secured from the immediate past employer, the new employer is required to conduct and document currently required minimum training.

7. Mere possession of a registration card does not serve as documentation of required training.

8. Failure of an employer and registered security officer to retain required training records is a violation punishable by suspension or revocation of the company license and the security officer's registration.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-421. Training; Private Security Officers; Use of Equipment or Devices.

Private security officers must not be issued or use equipment or devices for which they have not successfully completed training adequate to ensure the proper, accurate and safe use of such equipment. Documentation of such training must be maintained by the licensee and be available for inspection by SLED.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-422. Training; Private Investigators; Continuing Education requirements.

1. SLED will establish and maintain a SLED Private Investigations Advisory Committee comprised of members appointed by SLED for advice concerning continuing education standards and policy. Such membership may be rotated as deemed necessary by SLED.

2. Licensed and registered private investigators must complete and report continuing education training as required by SLED.

3. SLED must develop and publish written rules governing continuing education program policy, procedures and content.

4. In its discretion, SLED may approve for credits programs it identifies as providing information directly related to the development or enhancement of investigative skills or as otherwise directly applicable to the operation of a private investigation business.

5. SLED must maintain and publish to licensed and registered practitioners a list of approved training providers and programs.

6. Licensees are responsible for remaining in compliance and ensuring compliance with these requirements by registered employees.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

73-500. Background and Scope.

1. Pursuant to meeting the intent and purpose of the Criminal Gang Prevention Act of 2007 (A82, R109, S141), SLED must develop and manage a statewide criminal gang database to facilitate the exchange of information between federal, state, county, and municipal law enforcement agencies pursuant to the intent and purpose of this article.

2. As specified in SC Code Section 16-8-330, all state, county, and municipal law enforcement agencies must furnish information they acquire relating to criminal gangs and gang-related incidents to SLED to be included in the database.

HISTORY: Added by State Register Volume 33, Issue No. 6, eff June 26, 2009.

73-510. SLED Responsibilities.

1. Maintain the Statewide Criminal Gang Database (SCGD);

2. Ensure that use of the SCGD is only by bona fide law enforcement agencies and officials;

3. Receive recommendations from Chiefs and Sheriffs regarding individuals selected for data entry to the SCGD;

4. Provide extensive training to qualified individuals regarding database entry requirements and other applicable requirements specified in regulation and statute;
5. Provide access codes to those individuals who complete SLED SCGD training;
6. Monitor entries to and inquiries of the database;
7. Review applications for access and execute Memoranda of Understanding (MOU) with participating agencies;
8. Determine, as specified in state statutes, if information relating to criminal gangs, gang-related incidents, patterns of gang activity, or members or associates of criminal gangs received from federal law enforcement agencies and law enforcement agencies of other states is eligible to be included in the SCGD;
9. Verify through SLED Criminal Justice Information Services (CJIS) Site Security Surveys that participating agencies have provided adequate physical security and have security Standard Operating Procedures which meet the criteria of this regulation;
10. Audit participating agencies to verify that quality assurance procedures are in place to meet SLED requirements, and that compliance is maintained;
11. Terminate access for non-compliance;
12. Ensure applicable Federal Regulations regarding misuse are followed and civil penalties imposed when applicable; and
13. Review and purge files per applicable Federal Regulations, including 28CFR Part 23.

HISTORY: Added by State Register Volume 33, Issue No. 6, eff June 26, 2009.

73–520. Participating Law Enforcement Agency Responsibilities.

1. Ensure that employees granted access to SCGD have been trained as specified by SLED regarding implementation of the requirements of this regulation;
2. Provide physical security for SCGD terminals in accordance with SLED requirements;
3. Maintain data received from the SCGD in accordance with SLED requirements and 28 CFR Part 23;
4. Ensure that data submitted to SCGD has been collected in accordance with Code Sections 16–8–210 et seq. (specifically, Sections 16–8–230, -320 and -330) and that data not collected in accordance with those statutes is not submitted to the SCGD;
5. Ensure that adequate quality assurance procedures are in place to comply with SLED requirements, 28 CFR Part 23, this regulation, and any other applicable regulations or statutes.

HISTORY: Added by State Register Volume 33, Issue No. 6, eff June 26, 2009.

73–530. Criteria for Access to the Statewide Criminal Gang Database.

1. SLED will execute SCGD MOUs with participating agencies.
2. Participating agencies will provide a computer, connectivity, and qualified operators to access the secure SLED SCGD.
3. Participating agencies will enter and maintain SCGD data in accordance with this regulation.

HISTORY: Added by State Register Volume 33, Issue No. 6, eff June 26, 2009.

73–540. Criteria for Entry of Information to the Statewide Criminal Gang Database.

1. Information submitted to the database must comply with SC Code Section 16–8–230 subsections (2) through (5).
2. Information submitted to the SCGD must be from sources deemed reliable in accordance with generally accepted law enforcement criteria.
3. Individuals entered into the SCGD based on association with other known criminal gang members must be consistent with the Federal Bureau of Investigation's Violent Gang and Terrorist Organization File (VGTOF) criteria as defined in SC Code Section 16–8–330 (D) and (E).

HISTORY: Added by State Register Volume 33, Issue No. 6, eff June 26, 2009.

73–550. Criteria for Designation as an Active Member of a Criminal Gang.

1. An individual admits, at the time of arrest or incarceration, to being a member of a criminal gang; or,
2. An individual meets any two of the following criteria:
3. An individual is identified as a criminal gang member by a documented reliable informant;
4. An individual resides in or frequents a particular criminal gang's or group's area, and adopts their style of dress, their use of hand signs, or their tattoos, and associates with known criminal gang or criminal group members;
5. An individual is identified as a criminal gang member as corroborated by independent information;
6. An individual has been arrested more than once in the company of identified criminal gang members for offenses which are consistent with usual criminal gang activity, or criminal group activity for which the criminal group is associated with; or
7. An individual admits, at a time other than arrest or incarceration, to being a member of a criminal gang.

HISTORY: Added by State Register Volume 33, Issue No. 6, eff June 26, 2009.

73–560. Penalties for Misuse of the Statewide Criminal Gang Database.

1. Misuse of the SCGD will subject the offender to SLED decertification.
2. Misuse of the SCGD may possibly subject the offender to a Federal Civil Fine of up to \$10,000 as specified in Federal Regulation 28CFR Part 23.

HISTORY: Added by State Register Volume 33, Issue No. 6, eff June 26, 2009.