

**State of South Carolina  
Municipal Court  
Handbook**

**2011**

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**State of South Carolina Municipal Court Handbook**  
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## **Overview and Purpose**

The Municipal Court Administration Association of South Carolina is an affiliate of the Municipal Association of South Carolina, which is a nonpartisan, non-profit association representing the incorporated municipalities in South Carolina.

MCAA is dedicated to offering training, services and programs which will assist in the administration of municipal courts across the state. The Association recognizes clerks of court are an essential element in the judicial system. Without knowledgeable and efficient clerks of court, the system of justice could not operate. This manual is a useful and user-friendly reference guide and provides an overview for clerks of court, their staff members and other interested parties of procedures and operations to maintain an efficient court.

## Sources of the Law

### The Constitution

The constitutions of the United States and South Carolina provide the fundamental law of the judicial system. All other laws, regardless of their source, must not conflict with the U.S. Constitution. All state laws, regulations and ordinances must not conflict with the state constitution.

All summary court judges must strictly heed the provisions of both constitutions. The two constitutions are printed in Volume 21 of the S.C. Code of Laws.

### The South Carolina Code of Laws

The South Carolina Code of Laws is the basic authority for all state courts and is of particular importance to municipal courts. The Code is the collection of the laws enacted by the S.C. General Assembly. It also includes the United States and South Carolina constitutions, rules of court, and administrative rules and regulations.

Each statute (law) has a specific title, chapter and section number and is usually written by using numbers and letters separated by hyphens. For example, Title 1, Chapter 1, Section 10 is written "S.C. Code Ann. § 1-1-10." To find a particular statute, this series of numbers (a citation) is used.

The Code is annotated. This means that below each statutory provision are brief summaries of certain court opinions which interpret and apply the statute to particular cases. These opinions are binding upon a municipal judge in a similar case. Because these case notes may report a case that has been overruled or distinguished by a more recent case or by an amendment to the statute it interprets, the municipal judge must exercise caution in applying these cases. A case note is intended to be used as a research tool and not as final authority. The case note should not be relied upon as a complete and accurate restatement of the case. Therefore, the case itself should be read in its entirety prior to application.

Municipal clerks of court should note the Code is supplemented by pocket parts which bring the statutes up-to-date by including any changes in the law. Each time a statute is researched, the municipal judge or clerk of court should check the pocket part to ensure the law has not been amended or repealed.

An "A to Z" general index is contained in two soft-cover volumes. Every municipal clerk of court should develop a good working knowledge of this index.

## **Case Law**

The opinions of the S.C. Supreme Court constitute the case law of this state. These opinions are contained in the volumes of the South Carolina Reports, the Southeastern Reporter and the Southeastern 2nd Reporter.

These decisions are precedent, meaning they are the binding authority on any issue which has been previously decided by the state Supreme Court. The most recent opinion takes precedence; however, a magistrate or municipal judge may follow an earlier decision if the issues can be distinguished from the more recent opinion and the issue in the earlier case is identical to the case before the municipal judge.

## **Local Law**

Local ordinances have the same authority as statewide statutes within the area to which they apply. Municipal clerks of court should have a current copy of all city ordinances. Local law, while indexed in the 1976 Code, cannot be found there. Clerks of court should work with their court clerk to obtain amendments of ordinances as well as new ordinances.

## **Rules of Court**

The state Supreme Court has created various rules governing practice in all courts of the state. Each municipal clerk of court should have a good working knowledge of the rules of practice. These rules are located in Volume 22A of the Code.

## **Attorney General's Opinions**

The Attorney General is the chief legal officer of the state and often gives legal opinions on many subjects to various government officials. Attorney General's Opinions (available through WestLaw or Lexis databases) are helpful in areas of the law in which no court decisions can be found.

## **Administrative Procedures**

Article V, Section 4 of the state constitution names the Chief Justice of the state Supreme Court as the administrative head of the unified judicial system. The Chief Justice appoints an administrator of the courts and any assistants necessary to administer the courts of the state. It is important that each municipal court judge cooperate with the administrative procedures promulgated by the Chief Justice and S.C. Court Administration to achieve an efficient and uniform court system.



## **Other Resources**

Access the South Carolina Judicial Department Web site at [www.sccourts.org](http://www.sccourts.org) for opinions of the state Supreme Court and Court of Appeals, the Court Rules, and the summary court Judges Benchbook for Municipal and Magistrate Judges. The South Carolina Code of Laws and legislative information are located at [www.scstatehouse.net](http://www.scstatehouse.net).

The Municipal Court Administration Association of SC also provides training for municipal clerks of court twice a year and provides listserv access for members to network with clerks of court throughout the state. Additional information about this association and training opportunities is located at [www.masc.sc](http://www.masc.sc) (keyword: MCAA) along with links to resources regarding the administration of a city court office.

## **Overview of South Carolina Judicial System**

### **Judiciary**

The state judicial system is composed of the courts, the prosecution and the defense components. The court system is comprised of the state Supreme Court, state Court of Appeals, circuit courts, family courts, magisterial courts, municipal courts, probate courts and master-in-equity courts. The prosecutorial system is made up of the circuit solicitors and the Attorney General's office. The defense component includes circuit and county public defenders, court appointed counsel, retained counsel and the S.C. Commission of Appellate Defense.

### **The Courts**

#### **Supreme Court**

The state's highest tribunal is the state Supreme Court. The Court has both original and appellate jurisdiction but generally acts only in its appellate capacity. This includes cases on certiorari from the Court of Appeals and seven classes of appeals directly from the circuit and family courts. The seven classes are cases involving 1) the death penalty, 2) public utility rates, 3) significant constitutional issues, 4) public bond issues, 5) election laws, 6) an order limiting the investigation by a state grand jury, and 7) an order of a family court relating to an abortion of a minor.

#### **Court of Appeals**

The Court of Appeals is the judicial system's newest court, having commenced operation on September 1, 1983. The Court of Appeals hears most appeals from the circuit court and the family court (S.C. Code Ann. § 14-8-200). Exceptions occur when the appeal falls within any of the seven classes listed above or when the appeal is certified for determination by the state Supreme Court.

#### **Circuit Courts**

Directly under the Supreme Court and the Court of Appeals is the circuit court, the state's court of general jurisdiction. It consists of civil court (the Court of Common Pleas) and a criminal court (the Court of General Sessions). In addition to its general trial jurisdiction, the circuit court has limited appellate jurisdiction over appeals from the probate court, magistrate court and municipal court, as well as appeals from the Administrative Law Judge Division over matters relating to state administrative and regulatory agencies.

The state is divided into 16 judicial circuits. Each circuit has at least one resident judge who maintains an office in the judge's home county within the circuit. Circuit judges serve the 16

circuits on a rotating basis, with court terms and assignments determined by the Chief Justice. Circuit court judges are elected to six-year staggered terms.

### **Masters-In-Equity**

The governor appoints masters-in-equity with the advice and consent of the General Assembly to six-year terms. They may serve in a full or part-time capacity and are compensated by the county governing body. Masters have jurisdiction in equity matters referred to them by the circuit court. They have the power and authority of the circuit court sitting without a jury to regulate all proceedings in every hearing before them and to perform all acts and take all measures necessary or proper for the efficient performance of their duties under the order of reference.

### **Family Courts**

The unified statewide family court system was established by statute in 1976. The family courts have exclusive jurisdiction of all matters involving domestic or family relationships. Family courts are the sole forum for hearing all cases concerning marriage, divorce, legal separation, custody, visitation rights, termination of parental rights, adoption, support, alimony, division of marital property and change of name. These courts also generally have exclusive jurisdiction over minors under the age of 17. S.C. Code Ann. § 20-7-400 provides that the family court "shall have exclusive original jurisdiction and shall be the sole court for initiating action" concerning a child who "is alleged to have violated or attempted to violate any State or local law or municipal ordinance." At least two family court judges are elected for six-year staggered terms to each of the 16 judicial circuits. Fifty-two judges rotate primarily from county to county within their resident circuits.

### **Magistrate Courts**

There are approximately 319 magistrates in South Carolina, each serving the county for which he or she is appointed. The governor appoints them with the advice and consent of the state Senate for four-year terms and until their successor is appointed and qualified (Art. V, § 26, S.C. Const., and S.C. Code Ann. § 22-1-10).

Magistrates have criminal trial jurisdiction over all offenses which are subject to the penalty of a fine not exceeding \$500, imprisonment not exceeding 30 days or both (S.C. Code Ann. § 22-3-550). If petitioned by the Solicitor and agreed to by the defendant, magistrates may hear cases transferred from General Sessions (S.C. Code Ann. § 22-3-545). The penalty cannot exceed one-year imprisonment, a fine of \$5,100 or both. Magistrates have civil jurisdiction when the amount in controversy does not exceed \$7,500 (S.C. Code Ann. § 22-3-10). In addition, magistrates are responsible for setting bail, conducting preliminary hearings, and issuing arrest and search warrants. Unlike circuit courts and probate courts, magistrate courts are not courts of record. Proceedings in magistrate courts are summary (S.C. Code Ann. § 22-3-730).

## **Municipal Courts**

Each municipal council may establish, by ordinance, a municipal court to hear and determine all cases within its jurisdiction. Such courts are part of the unified judicial system. A municipality may, upon prior agreement with the county governing body, prosecute its cases in magistrate court, in lieu of establishing its own municipal court. Also, council may establish, by ordinance, a municipal court, then contract with the county governing authority for the services of a magistrate to serve as its municipal judge. The Chief Justice, pursuant to his/her powers as administrative head of the unified judicial system, would delegate authority to the county's chief summary court judge to assign a specific magistrate as municipal judge.

Municipal courts have jurisdiction over cases arising under ordinances of the municipality and all offenses which occur within the municipality and are subject to a fine not exceeding \$500, imprisonment not exceeding 30 days or both. If petitioned by the Solicitor and agreed to by the defendant, municipal courts may hear cases transferred from General Sessions (S.C. Code Ann. § 22-3-545). The penalty cannot exceed one-year imprisonment, a fine of \$5,100 or both. The powers and duties of a municipal judge are the same as those of a magistrate with regard to criminal matters. However, municipal courts have no civil jurisdiction. Municipal council sets the term of municipal judges, but it cannot exceed four years. Municipal judges appointed on or after May 24, 2004, must be appointed for a set term of not less than two years but no more than four years. Section 14-25-15(A) states, "Each municipal judge must be appointed by the council to serve for a term set by the council of not less than two years but not more than four years and until his successor is appointed and qualified. His compensation must be fixed by the council." Approximately 200 municipalities in South Carolina have chosen to create municipal courts.

## **Probate Courts**

Each county has a popularly elected probate judge who serves a four-year term. Probate courts have jurisdiction over marriage licenses, estates of deceased persons, minor settlements under \$25,000, guardianships of minors and incompetents, and involuntary commitments to mental institutions (S.C. Code Ann. § 14-23-1010 et seq.). They also have exclusive jurisdiction over trusts and concurrent jurisdiction with circuit courts over powers of attorney.

## **South Carolina Court Administration**

S.C. Court Administration is the administrative arm of the Chief Justice, who is constitutionally designated as the administrative head of the unified judicial system (Art. V, § 4 S.C. Const.). In addition to carrying out special assignments as directed by the Chief Justice, this Office collects caseload data from the state courts, makes recommendations to the Chief Justice for terms of court and assignment of judges, administers judicial education programs, monitors compliance with mandatory summary court judicial education

requirements, and administers the funds for foreign language interpreters and interpreters for the deaf.

### **The Prosecution**

By constitutional provision, the Attorney General is the chief prosecutor of the State (Art. V, § 20, S.C. Const.). The Attorney General also represents the State in civil litigation and issues opinions regarding the interpretation of law (S.C. Code Ann. § 1-7-10 et seq.).

Prosecution in circuit court is carried out by a circuit Solicitor and the Solicitor's assistant. In addition, a Solicitor, if directed by the Attorney General, may represent the State in a civil proceeding.

The arresting officer or the city prosecutor may prosecute misdemeanor traffic violations in the summary courts. County attorneys may prosecute violations of county ordinances in magistrate courts.

### **The Defense**

When a magistrate or municipal judge calls a criminal case for disposition and determines that a prison sentence is likely to be imposed following a conviction, the accused, if unable to retain counsel due to financial inability, is entitled to a court appointed attorney upon proof of indigency (Rule 602(a), S.C. Appellate Court Rules). The court may appoint the public defender or any other member of the local bar it designates. (Op. Atty Gen. dated November 7, 1979). Once appointed, the attorney must represent the accused as far as the case is pursued in South Carolina's courts unless he is permitted to withdraw for good cause.

S. C. Code Ann. § 40-5-80 allows a citizen to prosecute or defend his own cause, if he so desires. Act No. 307 of 2002, effective June 5, 2002, amended Section 40-5-80 and deleted the authority of a citizen to defend the cause of another under certain conditions.

By Order of the Supreme Court dated September 21, 1992, and pursuant to S. C. Code Ann. § 33-1-103, businesses may be represented by a non-lawyer officer, agent or employee, including attorneys licensed in other jurisdictions and those possessing Limited Certificates of Admission pursuant to Rule 405, SCACR, in civil magistrate's court proceedings. Such representation may be compensated and shall be undertaken at the business' option, and with the understanding that the business assumes the risk on any problem incurred as the result of such representation. The magistrate shall require written authorization from the entity's president, chairperson, general partner, owner or chief executive officer, or in the case of a person possessing a limited certificate, a copy of the certificate, before permitting such representation.

## Municipal Clerk of Court

Summary courts employ professional and administrative staff to support the operations of each court. Municipal clerks of court are charged with docket management; receipt of fees; fines and costs; maintenance of all court records; and submission of reports to a variety of state and federal agencies. In many municipalities, the municipal judge is part-time and the clerk of court manages the overall administrative operations of the court. In some municipalities, the clerk of court is the department head for the municipal court and answers directly to the town administrator.

The municipal clerk of court should not be confused with the county clerk of court who is popularly elected by each county and serves a four-year term. In addition, the county clerk of court serves both the circuit court and the family court.

### Role of the Clerk of Court

The duties of clerks of court vary depending on the location and size of the court in which they are employed. The clerk of court functions in administrative areas rather than legal areas and needs the skills required of any professional position with managerial responsibility. Basic functions performed by clerks of court include the following.

- *Caseflow Management*—the management and coordination of processes by which courts move cases from filing to disposition, including the monitoring of post disposition activity, to ensure the integrity of court orders. Effective caseflow management requires continuous evaluation, problem identification and skillful leadership to implement needed change.
- *Human Resource Management*—recruiting, selecting, training, developing and counseling court employees; establishing ethical standards; administering wage, salary, and performance appraisal and reward systems; and facilitating personnel matters for judicial staff.
- *Fiscal Administration*—preparing court budgets; administering accounting, purchasing, payroll and financial control functions; and guiding the budget through state and local government review processes.
- *Technology Management*—evaluating opportunities for technologies that expand the capacity of the court system. These include the use of personal computers to navigate online information systems; provision for the electronic transmission of and access to data, images and other files in automated records management and retrieval systems; assessment of emerging technologies for video and telecommunications systems, multimedia tools for education, training and information delivery; and other computer-assisted systems that can improve court performance.
- *Information Management*—developing the capacity to deliver information to decision makers

at critical events; monitoring system performance to milestones established by the court; informing court system employees of events that are outside performance measures established by the court and triggering the appropriate means of intervention; and providing appropriate electronic access to court information for attorneys, litigants, governmental agencies and the general public.

- *Jury Management*—managing the jury system in the most efficient and cost-effective way.
- *Space Management*—managing physical space to ensure access to all citizens, provide adequate room for work and circulation, and instill public confidence.
- *Intergovernmental Liaison*—acting as a liaison to other governmental agencies and departments to promote collaboration, integration of systems and facilitation of change, while maintaining the integrity of the court as a separate but equal branch of government.
- *Community Relations and Public Information*—acting as a clearinghouse for the release of information to the media and the public, and collecting and publishing data on pending and completed judicial business and internal functions of the court system.
- *Research and Advisory Services*—identifying organizational problems and recommending procedural and administrative changes.
- *Secretarial Services*—acting as staff for judicial committees or organizations.

## **Organization**

Municipal courts are created by ordinance of the municipal council. This ordinance provides for the appointment of one or more municipal judges and requires the municipal council to provide a clerk of court and sufficient clerical and non-judicial support personnel to assist the municipal judge (S.C. Code Ann. §14-25-5).

While the municipal ordinance establishes the municipal court and the personnel requirements of the court, each municipality determines its own governmental structure and the placement of the court in the municipal hierarchy. As such, the municipal clerk of court and court staff, while coordinating daily functions of the court with the municipal judge, are considered municipal employees and should be under the direct supervision of a municipal government employee (e.g. town administrator or finance director).

While the S.C. Court Administration has not issued an executive order about separation of law enforcement personnel and court administration, the supervision of court staff by law enforcement personnel is highly discouraged. This avoids the appearance of impropriety and maintains judicial impartiality.

## **Relationship Between Law Enforcement and Clerks of Court**

Formal associations between municipal court officials and municipal law enforcement officials are strongly disfavored in South Carolina because these associations create an appearance to the public of possible bias or partiality by the court in favor of law enforcement.

Advisory Committee Opinion 08-2002 concludes that a municipal police chief should not supervise the municipal court. This conclusion relies on the language of Canon 2 of the Code of Judicial Conduct, which is applicable to all judges in the state. It requires a judge to avoid impropriety and the appearance of impropriety. It emphasizes the principle of judicial impartiality. The concern is the public would perceive an improper influence on judicial decisions when law enforcement has both a formal supervisory role in administration of the municipal court and is the prosecuting agency in the municipal court. Similarly, Advisory Committee Opinion 19-2001, citing Canon 2 and Canon 1 (“A judge shall uphold the integrity and independence of the judiciary”), concludes that it is improper for a clerk of the municipal court also to serve as a records clerk for the police department.

Attorney General opinions provide more detailed explanations of the underlying issues. A December 1996 opinion concluded “it would not be appropriate for an individual to work simultaneously for the Police Department and the Municipal Court.” It relied on general national law for the principles that judicial and prosecutorial functions (the latter represented by the police) should be “separate and distinct and are not to be merged” and that court employees must “maintain a disinterested attitude” in the prosecutorial function. A July 2002 opinion sets out the conclusions, among others, that (1) the clerk of the municipal court, while not a judicial officer, is an arm of the municipal court and “must maintain the appearance of neutrality” and avoid situations that create even the appearance of a conflict of interest, and (2) “the functions of law enforcement and the judiciary must remain separate and distinct.” A September 2003 opinion reiterates some of this reasoning in concluding that a conflict of interest could be created by having a town employee serve as a town judge and “police clerk” or record keeper for the police department.

The thrust of these opinions is that South Carolina strongly disfavors formal relationships of employment or association between municipal police and municipal court officials.

## **Relationship Between Municipal Judge and Clerk of Court**

Judges and clerks of court work in a complex environment characterized by ambiguity and adherence to local custom, both political and organizational. Within that environment, one of the most significant relationships is that between the judge and the clerk of court. Judges ultimately are responsible for effective administration of the court. Frequently, constitutions and statutes make this duty clear. Other times, the duty is implied. In either case, effective administration takes place when the judiciary and the clerk of court manage the court together. Effective systems of administration provide for the participation of all judges for



developing policy and planning for the court. Through the collaborative efforts of the clerk of court and the chief judge, court policy is implemented, monitored and facilitated.

The clerk of court serves the dual function of increasing the amount of time a judge has for adjudication and bringing professional management knowledge and capability to the judiciary. In courts where judges lack administrative support, they must divide their time between judicial and administrative functions. With mounting caseloads and increased pressure for more case dispositions, judges have little time to direct the day-to-day operations of the court system, plan for the implementation of new technologies or integrate new procedures that can improve system performance. A clerk of court can help the court develop and recommend policies and coordinate work processes that enhance system performance while maintaining the independence of individual judges. Also, clerks of court can help develop goals for the courts, prepare and execute budgets, recognize changes in caseload or demographics that will affect court operations and funding, manage court personnel and programs for their professional development, improve jury systems and services to the public, implement automated information systems, plan for space requirements, administrate systems for assessing and collecting fees, and establish procedures for handling information requests.

The attitudes and perceptions of the judiciary, especially those of the chief judge, are of key importance to a clerk of court. Usually, a clerk of court serves as an employee of the entire court but is subject to the supervision and direction of the chief or presiding judge. In addition, many functions performed by a clerk of court were traditionally duties of the chief judge. Therefore, how the chief judge perceives the clerk of court's role will determine, to a great extent, the exact duties of the clerk of court.

If the chief judge views the functions of the clerk of court as separate but supportive of his own functions, the judge may be more likely to entrust the administrator with broad responsibilities. In this situation, a chief judge sees the clerk of court as a professional and as the main source of support, advice and information on managerial matters facing the court. The chief judge and the clerk of court can increase each other's effectiveness by establishing a relationship based on mutual respect for one another and employing the skills each brings to the task at hand.

## **Ethical Considerations**

The legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in the legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code of Judicial Conduct establishes standards for ethical conduct of judges. However, these standards also apply to court officials and staff, including clerks of court, under the direction of the judge (see Canon 3(c)(2) for additional clarification).

The Canons and sections are rules of reason. They should be applied consistently with constitutional requirements, statutes, other court rules, and decisional law and in the context of all relevant circumstances. The Canon is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The Canons are designed to provide guidance to judges and candidates for judicial office and to provide a structure for regulating conduct through disciplinary agencies. It is not designed or intended as a basis for civil liability or criminal prosecution.

The text of the Canons and sections is intended to govern conduct of judges and to be binding upon them. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system.

The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of judges. They should also be governed in their judicial and personal conduct by general ethical standards. The Code of Judicial Conduct is intended, however, to state basic standards which should govern the conduct of all judges and to provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.

To illustrate the scope of the rule, the five Canons of the Code of Judicial Conduct are summarized below. The full text can be found in the Appendix.

Canon 1 - A judge shall uphold the integrity and independence of the judiciary.

Canon 2 - A judge shall avoid impropriety and the appearance of impropriety in all his activities.

Canon 3 - A judge shall perform the duties of his office impartially and diligently.

Canon 4 - A judge shall conduct his extrajudicial activities as to minimize the risk of conflict with his judicial obligations.

Canon 5 - A judge or judicial candidate shall refrain from inappropriate political activity.

## Judicial Misconduct

A municipal judge, as a judicial officer, is subject to Rules 501 and 502, SCACR. While municipal judges are a highly visible symbol of government under the rule of law, court officials and staff are subject to the requirements of these rules and should thoroughly familiarize themselves with them.

Pursuant to these rules, a summary court judge is subject to the disciplinary power of the S.C. Supreme Court for misconduct (including both judicial and nonjudicial action, whether the conduct complained of occurred before or after the judge assumed judicial office), if the judge

- 1) has been convicted of a crime involving moral turpitude;
- 2) violates the Code of Judicial Conduct (Rule 501);
- 3) persistently fails to perform his judicial duties or is persistently incompetent or neglectful in the performance of his judicial duties;
- 4) is habitually intemperate;
- 5) fails to timely issue his orders, decrees, or opinions or otherwise perform his official duties without just cause or excuse.

The suspension of a judge is not a determination of guilt or innocence nor does it follow a determination of guilt or innocence with regard to a specific charge, allegation or complaint. Such procedure merely prohibits a judge from performing any judicial functions until further investigation has been completed.

In addition to the disciplinary powers of the state Supreme Court to reprimand, suspend, find in contempt or remove a judge guilty of misconduct, the Supreme Court has the authority to remove a judge from office for mental or physical disability (Rules 502 and 505, SCACR).

A municipal judge may only be suspended or removed from office by order of the Supreme Court pursuant to its rules for incapacity, misconduct or neglect of duty. Therefore, a municipal judge cannot be suspended or removed from office at the discretion of city council. A municipal judge's failure to retire in accordance with S.C. Code Ann. § 22-1-25 or a municipal judge's failure to comply with the training and examination requirements of S.C. Code Ann. § 22-1-10(C) may subject the judge to suspension or removal by order of the Supreme Court (S.C. Code Ann. § 22-1-30).

## **Office of Disciplinary Counsel**

Regulating the conduct of judges is critical to preserving the integrity of the judicial system and to instilling public confidence in the administration of justice. The task of regulating judges falls to the Office of Disciplinary Counsel and the Commission on Judicial Conduct.

The Office of Disciplinary Counsel is tasked primarily with screening and investigating all complaints made against judges and attorneys in South Carolina. Also the Office is also responsible for prosecuting those judges who have either committed ethical misconduct or are suffering from a physical or mental condition which adversely affects their ability to serve the public.

## **Commission on Judicial Conduct**

The Commission on Judicial Conduct was created by Rule 502, South Carolina Appellate Court Rules, to investigate complaints of judicial misconduct and incapacity made against judges who are a part of the South Carolina unified court system. This 24-member commission is made up of 18 judges, four attorneys, and two members of the general public.

## **Filing Complaints**

There are no forms or other special requirements to file a complaint of judicial misconduct, but some things are necessary for judicial complaints. Any complaint filed with the Commission on Judicial Conduct needs to be in writing and signed by the person making the complaint. In the complaint, there should be as much detail as possible about what took place and the reason for the complaint. If there are any documents that support the complaint or help explain what happened, copies of those documents should also be included with the complaint letter. Finally, the judge should be fully identified, and the full address and phone number of the complainant should be included with the letter. Send complaints should be sent to the Commission on Judicial Conduct at 1015 Sumter Street, Columbia, SC 29201.

## Procedures and Guidelines

### Traffic Violations

Traffic offenses are offenses against the state in violation of penal law and therefore are criminal in nature. Thus, the processes and procedural safeguards discussed in the criminal offenses section apply to traffic offenses. For example, an individual charged with a traffic offense for which a prison sentence may be imposed has the same right to due process of law, including the right to counsel and right to trial by an impartial jury as one charged with assault and battery.

The statutory authority of magistrates to handle traffic offenses is S.C. Code Ann. § 22-3-550. Magistrates have jurisdiction of all offenses which may be subject to the penalties of a fine or forfeiture not exceeding \$500, imprisonment not exceeding 30 days or both. Municipal judges are granted the same jurisdiction in traffic cases as magistrates by S.C. Code Ann. § 14-25-45 of the South Carolina Code. Summary court judges may impose sentences within these limits singularly or in the alternative. The penalty for most violations of the motor vehicle laws (except for DUI and reckless driving) within a magistrate's jurisdiction is a fine not exceeding \$500, plus assessments.

Summary court jurisdiction may be limited in those cases in which an offense within the jurisdiction of the summary court is included in a charge beyond the judge's jurisdiction or when a charge of an offense within the magistrate's jurisdictions has been joined with an offense over which the summary court judge has no jurisdiction.

The jurisdiction of municipal courts over traffic offenses is within the respective limits of such municipalities. However, S.C. Code Ann. § 17-13-40(A) provides that when police authorities of a town or city are in hot pursuit of an offender for a violation of a municipal ordinance or state statute committed within the corporate limits, the authorities may arrest the offender, with or without a warrant, at a place within the county in which the town or city is located or at a place within a three-mile radius of the corporate limits.

Proceedings in traffic offenses triable in summary courts are commenced by the service of either a properly drafted arrest warrant or a Uniform Traffic Ticket. The statutory authority for the Uniform Traffic Ticket is S.C. Code Ann. Section 56-7-10, which vests summary courts with jurisdiction to hear and dispose of traffic charges and certain other named nontraffic offenses. The Uniform Traffic Ticket is the only official summons, other than numbered arrest warrants, on which traffic offenses may be charged. "Traffic offenses" means only those traffic offenses defined or described in Title 56. Also, S.C. Code Ann. § 56-7-15 notes that any summary level charge that is conducted in the presence of law enforcement can be written in a Uniform Traffic Ticket. Specific nontraffic offenses which may be charged on a Uniform Traffic Ticket are listed in S.C. Code Ann. § 56-7-10.

## **Criminal Offenses**

### **Distinctions Between Civil and Criminal Law**

There are a number of distinctions between civil and criminal cases. First, a criminal case involves an offense against the state, county, municipality, the people in general or the community. A civil case, on the other hand, involves a dispute between private parties concerning wrongful conduct which is not a crime. In some situations, the same facts may create both a criminal action and a civil suit. For instance, a person may intentionally and unjustifiably strike another person and cause injury. A criminal charge for assault and battery may be initiated, and a civil suit for damages may be brought.

A criminal action can begin in two ways. Either the victim of the crime or a law enforcement officer files a complaint under oath, asking a magistrate to issue an arrest warrant. The warrant is served, and the defendant is brought to the magistrate or municipal judge. A civil suit begins with the filing of a complaint which is served upon the opposing side.

### **Procedural and Substantive Law**

Procedural law is the means or method of enforcing legal rights and obtaining relief or redress. It is the machinery which a court uses to administer legal proceedings.

Substantive law is composed of the law which is applied by the system of procedural law. Substantive law consists of the elements of the crimes or cause of action, the statute of limitations and the rules of evidence.

The statute of limitations is an affirmative defense. This means the defendant must bring this defense to the attention of the magistrate or municipal judge. The statute of limitations provides for a certain time in which a criminal proceeding may begin. If the criminal action is not begun within the specified time, the defendant can never be prosecuted for the crime. South Carolina does **not** have a general statute of limitations for criminal actions. However, in a few very rare instances, a period of limitations is incorporated in specific criminal statutes.

Substantive law includes the rules of evidence. The South Carolina Supreme Court has adopted the South Carolina Rules of Evidence. The Rules of Evidence are those rules by which matters of fact or allegation are established in all legal proceedings. The Rules of Evidence are supplemented by the provisions found in Title 19 beginning with Section 19-1-10. These rules and sections designate the accepted types of evidence, such as oral testimony, evidence in the form of documents, public or private records or writings, and certain types of exhibits. The rules control the development of evidence from various possible sources, including pretrial statements or admissions, oral or written testimony or other admissible evidence, as well as any inferences or presumptions permitted to be drawn from that developed at trial.

## **Statutory and Common Law**

Statutory law is law enacted by the legislature. Common law is law based on customs, usage and court decisions.

### **Classification of Crimes**

Effective January 1, 1994, the felony and misdemeanor distinctions of crimes in South Carolina are as follows:

#### A. Felony (S.C. Code Ann. § 16-1-10)

Felonies consist of six categories, each having a maximum penalty. The term of imprisonment is listed below. There are also approximately 40 felonies the legislature has exempted from the classification system. These include crimes such as murder, homicide by child abuse, burglary, first-degree offenses, and numerous offenses involving illegal trafficking.

Class A felonies	30 Years
Class B felonies	25 Years
Class C felonies	20 Years
Class D felonies	15 Years
Class E felonies	10 Years
Class F felonies	5 Years

#### B. Misdemeanor (SC Code Ann. § 16-1-20)

Misdemeanors consist of three categories, each having as the maximum penalty, the term of imprisonment listed below. Some misdemeanors are exempt from the classification system and carry a term of imprisonment of less than one year or greater than three years.

Class A misdemeanor	3 Years
Class B misdemeanor	2 Years
Class C misdemeanor	1 Year

## **Parties To A Criminal Action**

### *The State*

The State is the prosecuting party. All crimes are prosecuted in the name of the State because the crime is an offense against all of society (S.C. Code Ann. § 17-1-10).

### *The Defendant*

The defendant is the person against whom the criminal action is brought. The defendant in a criminal case may be an individual or a corporation. Defendants may also be classified according to their degree of participation in the crime.

#### **Principle**

The principle is the chief actor in a crime.

#### **Accessory**

An accessory before the fact is a person who aids and abets another to commit or counsels, hires or otherwise procures the felony to be committed, but is not present at the scene.

An accessory after the fact is a person who, knowing a felony has been committed, receives, comforts or assists the felon in order to allow escape. (S.C. Code Ann. § 16-1-55)

## **Requirements For Proof of Guilt in the Criminal Case**

It is always the State's responsibility (burden) to prove a defendant guilty of a crime.

The standard by which the State must prove the defendant's guilt is proof beyond a reasonable doubt.

## **South Carolina Criminal Courts**

### **A. Magistrate courts (S.C. Code Ann. § 22-5-10)**

The magistrate court issues search and arrest warrants and courtesy summons warrants for any crime, sets bail for any crime except cases involving life or death sentences, and conducts preliminary hearings. The maximum penalty which a magistrate can give is a \$500 fine and 30 days imprisonment.

### **B. City or municipal courts (S.C. Code Ann. § 14-25-5)**

Municipal courts have the same criminal powers as the magistrate courts. They also hear



cases involving violations of city ordinances and courtesy summons warrants. Municipal courts have no civil jurisdiction.

### C. Family court

A family court judge hears juvenile criminal/delinquency cases. There are no juries in family court. This court is usually for children below the age of 17, although there are certain exceptions.

### D. Circuit Court: General Sessions (Criminal) and Court of Common Pleas (Civil) (S.C. Code Ann. § 14-5-10)

The circuit court hears all cases above a magistrate's jurisdiction. The circuit court also hears appeals from magistrate and city courts. When a case involves life imprisonment or the death penalty, the bond hearing must be held before a circuit court judge.

### E. South Carolina Court of Appeals (S.C. Code Ann. § 14-8-10)

The S.C. Court of Appeals reviews criminal and civil cases from the lower courts. It can hear all criminal appeals **except** death penalty cases.

### F. South Carolina Supreme Court (S.C. Code Ann. § 14-3-10)

The S.C. Supreme Court is the highest authority for appeal. It hears appeals in one of two ways

1. Direct Appeal: There are five categories of cases (4 civil, 1 criminal) which go directly to the S.C. Supreme Court. Death penalty murder is the criminal case category. The civil cases, which are directly appealed, are cases involving a public utility, public bond issues, elections and constitutional questions.
2. "Writ of Certiorari": All cases other than the five listed above may go to the state Supreme Court only if the Court agrees to hear them and certifies them for hearing. This process is known as "Certiorari" and refers to the discretion of the Supreme Court to hear or not hear cases as it chooses. If the Supreme Court agrees to hear the case, it will grant a "Writ of Certiorari."

Cases may be appealed to the U.S. Supreme Court by petitioning for a "Writ of Certiorari" to hear the case from the S.C. Supreme Court. This is the **only** way in which a state case may be reviewed on direct appeal in the U.S. Supreme Court.

## Entering Pleas

The first act of a defendant which a magistrate must require in a criminal proceeding is the

entering of a plea. The process which a magistrate must follow in the plea procedure is threefold.

- Jurisdiction – determine if the court has jurisdiction over both the defendant and his alleged offense.
- Counsel – ensure that the defendant is represented by proper legal counsel, or obtain waiver of counsel from the defendant.
- Pleading – obtain one of five possible pleas from the defendant: guilty, not guilty, “nolo contendere,” double jeopardy or no plea.

## Counsel

Once the municipal judge has determined that he has jurisdiction over a criminal offense, he must ensure the defendant has access to proper legal representation. Article 1, Section 14 of the S.C. Constitution grants to the accused the right to be “fully heard in his defense by himself or by his counsel or both.” Because the law and its application is often a very complex process, the municipal judge should encourage the defendant to obtain an attorney. Also the judge should inform the defendant that if the accused cannot afford an attorney, the State will provide one. Should the defendant decide to use counsel, the judge should not accept any plea until the defendant has had an opportunity to consult with his lawyer. If the defendant should decide **not** to use an attorney’s services, the judge should carefully examine the accused to determine if he is fully aware of his rights. The defendant should sign a waiver of right to counsel.

This examination is a very important step in the plea process. To be lawful, the defendant’s decision to waive counsel must be made both voluntarily and with an understanding of his rights. *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); *State v. Lambert*, 266 S.C. 574, 225 S.E.2d 340 (1976). Though an absence of counsel does not invalidate a plea, it does greatly increase the burden put upon the judge to make sure the defendant is aware of his rights.

The waiver of the right to have a lawyer becomes especially critical when the defendant decides to plead guilty. In such instances, the judge must explain to the defendant that he is giving away

- a. the right to trial by jury,
- b. the right to confront his accusers, and
- c. the privilege against compulsory self-incrimination.

The defendant must have an understanding of these rights and realize how they relate to the facts of his case. Further, the court must be able to show in the court record that the accused both understood his offense and its possible consequences and that he was not led into this decision by false promises or threats. *Vickery v. State*, 258 S.C. 33, 186 S.E.2d 827 (1972).

Type of questions the judge should ask the defendant:

- a. Do you understand the rights you have given up by pleading guilty?
- b. Do you understand that you have the right to a speedy trial by an impartial jury, a public trial by jury, testify on your own behalf, present witnesses and evidence in your own behalf, and cross-examine the state's witnesses?
- c. Do you understand that the state must prove beyond a reasonable doubt that you are guilty of this offense?
- d. Do you understand that a jury verdict must be unanimous?" (Explain if necessary.)
- e. Do you understand that by pleading guilty, you are admitting all matters of fact in the accusation? Do you further understand that by pleading guilty, you give up any objections you may have to this charge?
- f. Do you understand the possible punishments I can impose upon you for committing this crime? (Cite maximum penalty.)
- g. Are you making this decision to plead guilty of your own free will? Have you in any way been threatened or forced to accept a guilty plea?

The judge should always ask the defendant, as well as the state, whether the defendant has decided to plead guilty as the result of a plea bargain. The judge must inform both parties that the agreement must be outlined in the record to be enforced by the appellate court. The judge should also ask these further questions:

- h. Have you agreed to plead guilty as a result of a bargain with the prosecutor? What is your understanding of this bargain?
- i. Do you understand that this bargain is not a guarantee and that I may impose one of the punishments I told you about regardless of the bargain?

With regards to plea bargaining, the judge must remain isolated and detached from the negotiations.

In *State v. Cross*, 270 S.C. 44, S.E.2d 514, at 516-517, (1977), the S.C. Supreme Court stated, "While we acquiesce in the tendency of the courts to allow plea bargaining, we are of the opinion that the judge should not initiate or influence the agreement nor be a party to the negotiations. A plea induced by the influence of the judge cannot be said to have been voluntarily entered. The Solicitor is the adversary of the defendant and his counsel. The negotiations should be between the adversaries. The judge is not the adversary of either. An agreement reached between the Solicitor and his adversary can never be more than a recommendation. The judge must remain in a position of complete neutrality such that he may, in the last analysis, exercise freedom of sentencing judgment based on all of the facts."

The judge should, in a step-by-step process, review the evidence that the prosecutor would have introduced if the case had been tried. He should ask the defendant if he committed the alleged acts. Also he should also obtain a full statement from arresting officers, *State v. DeAngelis*, 256 S.C. 364, 182 S.E.2d 732 (1971). Then, and only then, if the judge believes

that all parties involved in the proceeding are telling the truth and are not under the influence of any drugs or alcohol, should he accept the guilty plea.

## **Pleading**

After the judge has determined his jurisdiction and determined whether or not the defendant wants counsel, he should ask for the defendant's plea. One of the following may be entered by the defendant or his attorney

**Guilty:** an admission or confession of guilt to the crime. If a written confession accompanies the defendant, make sure the confession is accurate and not made under duress. A guilty plea or confession is not extracted under duress if the defendant makes it from fear of the possible penalty the court might impose. *Brady v. United States*, 397 U.S. 742, 90 S.Ct. 1463, 25 L.Ed.2d 747 (1970).

A judge's acceptance of a guilty plea is subject to the same requirement of voluntariness and understanding outlined in the previous section.

**Not Guilty:** a denial of guilt which calls upon the prosecution to prove its case. When the defendant pleads not guilty, the judge should set a court date and ask the accused if he is prepared to go to court on that date.

**Nolo Contendere:** a defendant's assertion that "I do not wish to contend the charge." The court should explain that the plea of "nolo contendere" has the same legal effect as a plea of guilty, except that such a plea may not be used against the defendant as an admission of guilt to the alleged act in a civil proceeding. *Kibler v. State*, 267 S.C. 250, 227 S.E.2d 199 (1976). The judge should treat a plea of "nolo contendere" as a guilty plea (S.C. Code Ann. § 17-23-40).

**Double Jeopardy:** a special plea where the defendant asserts that he has already been prosecuted for the same or a different offense that arises out of the same criminal transaction. S.C. Code Ann. § 12-23-20 prohibits double prosecution for a criminal act that constitutes two or more offenses.

**No Plea:** a refusal by the defendant to enter a plea. In such cases, the judge should enter a plea of not guilty and set a trial date.

## **Warrants, Arrests and Bond Issuance**

### **Arrest Warrants**

"Arrest" may be generally defined as a deprivation of personal liberty resulting from a restriction on an individual's right to movement, against his will and by force, threat or assertion of authority.

Recognizing the seriousness of an interference with an individual's right of liberty, the U.S. Constitution and the S.C. Constitution have placed restrictions on the power of arrest.

“No person shall be...deprived of life, liberty, or property without the due process of law...” (U.S. Const., Fifth Amendment).

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” (U.S. Const., Fourth Amendment).

General statutory provisions relating to arrest warrants are located in S.C. Code Ann. § 17-13-10 through 17-13-160. S.C. Code Ann. § 22-3-710 provides: “All proceedings before magistrates in criminal cases shall be commenced on information under oath, plainly and substantially setting forth the offense charged, upon, and only which, shall a warrant of arrest issue.” This section is made applicable to municipal judges by § 14-25-45 which states: “Each municipal court shall have jurisdiction to try all cases arising under the ordinances of the municipality for which established. The court shall also have all such powers, duties and jurisdiction in criminal cases made under state law and conferred upon magistrates...” *Town of Honea Path v. Wright*, 194 S.C. 461, 9 S.E.2d 924 (1940); *State v. Fennel*, 263 S.C.216, 209 S.E.2d 433 (1974).

### **Courtesy Summons Warrants**

S.C. Code Ann. § 22-5-110 requires the issuance of a courtesy summons warrant for any misdemeanor charge sought by non-law enforcement personnel, upon a finding of probable cause. Pursuant to S.C. Code Ann. § 22-5-115, a courtesy summons warrant is a criminal charging document used when a citizen serves as the affiant, rather than a law enforcement officer, and requests the arrest of a person for allegedly committing a summary court level offense.

The affiant must provide a sworn statement establishing probable cause that the alleged crime was committed by the defendant. The summary court judge undertakes the same analysis as if determining whether to issue an arrest warrant.

The courtesy summons warrant is a numbered, three-part form consisting of a copy for the court, a copy for the defendant and an audit copy. Also these documents may also be generated locally by computer. The computer-generated courtesy summons warrant must be identical to SCCA 519 and approved by S.C. Court Administration prior to its use. Upon approval, groups of numbers will be given to the requesting party for the computer-generated courtesy summons warrant. The numbers are identical to warrant numbers except the sequence of numbers is followed by “CSW” to differentiate it from an arrest warrant.

Only offenses within the jurisdiction of magistrate and municipal court (currently \$500, 30 days or both) may be written on a courtesy summons warrant. General Sessions charges must be written on an arrest warrant.

A courtesy summons warrant must be approved by the Attorney General (approved August 5, 2008) and must contain the following:

1. an affidavit that establishes probable cause
2. a description of the charges against the defendant
3. the date, time and place of the trial
4. the name of the issuing officer
5. the defendant's and affiant's names, addresses and telephone numbers
6. the date and location of the incident
7. a notice that the defendant may be tried in his absence or a bench warrant may be issued for his arrest.

Law enforcement must serve a courtesy summons warrant personally upon the defendant. A courtesy summons warrant may not be used for a custodial arrest. Upon service, the defendant must be given a court date and allowed to proceed without being placed into custody.

Court in each jurisdiction must set a predetermined date(s) each month for disposal of cases charged on courtesy summons. Law enforcement serving courtesy summons warrants should be given several courtesy summons trial dates in advance of service. The service officer must write the date of trial on the courtesy summons warrant upon service, giving the defendant at least 10 days notice prior to trial.

The defendant may request a bench trial or jury trial. Standard of proof at trial is "beyond a reasonable doubt." If the defendant is convicted at trial, the defendant must be booked so that the criminal disposition may be forwarded to the SC Law Enforcement Division. If the defendant is found not guilty, the defendant is free to go without undergoing the booking process.

If the defendant fails to appear at trial, he may be tried in his absence and, if convicted, a bench warrant is issued for the defendant's arrest. At this point in the criminal proceeding, a custodial arrest is warranted. If the court has an accurate mailing address for the defendant, it may be prudent to send the defendant a letter prior to issuing the bench warrant to notify him of the consequences of his failure to appear and allowing him a certain amount of time to willingly surrender to the court.

### **Arrest Without A Warrant**

From the language of the Fourth Amendment, it is clear there is a constitutional preference for arrests made "with" rather than "without" warrants. However, certain exceptions to the general rule requiring a warrant are still recognized.

### **1. Felony Arrests**

An officer may arrest without a warrant if he has probable cause to believe the person has committed a crime classified as a felony (S.C. Code Ann. § 17-13-10). Nevertheless, to protect the rights of the defendant and the interest of the arresting officer, a warrant should be obtained prior to arrest unless it appears the alleged felon may escape or further violate the law.

### **2. Misdemeanor Arrests**

An officer may arrest without a warrant a person who has allegedly committed a crime classified as a misdemeanor only if the crime was committed in the officer's view (S.C. Code Ann. §17-13-30). An off-duty police officer may not make an arrest as a private citizen for misdemeanors committed outside his jurisdiction limits. See *State v McAteer*, 349 S.C. 644, 532 S.E.2d 865 (S.C. 2000).

### **3. Uniform Traffic Tickets**

If an offense is committed in the presence of a law enforcement officer and the punishment is within the jurisdiction of magistrate or municipal court, the officer may use a Uniform Traffic Ticket to arrest the person (S.C. Code Ann. § 56-7-15). Subsection (B) of § 56-7-15 requires an officer who uses a Uniform Traffic Ticket to make an arrest in a criminal domestic violence matter (for a violation of Chapter 25 of Title 16). He must complete and file an incident report immediately after issuing the ticket.

If an arrest has been made without a warrant, the arresting officer should take the person to a magistrate or municipal judge without unreasonable delay so that the judge may investigate the circumstances of the arrest and, if appropriate, issue an arrest warrant. Issuing an arrest warrant after an arrest serves informational and administrative purposes. It protects the police officer from prosecution under Section 17-13-50. The Section states it is a criminal offense for an arresting officer not to inform the arrested person of the grounds of the arrest. Finally, in cases beyond the trial jurisdiction of the magistrate or municipal judge, it provides the Solicitor with the necessary information from which the indictment may be drawn.

## **Arrest With A Warrant**

### **1. The Complaint**

A person, whether police officer or private citizen, may appear before a magistrate or municipal judge and "swear out a warrant" seeking the arrest of another person. This complaint must be in writing and under oath. The magistrate or municipal judge should remind the complaining party the penalty for perjury attaches to all facts alleged in the affidavit and then administer an oath. For example:

"Do you swear or affirm that the information contained in this complaint is true, so help you God?"

Either the complaining party or the magistrate judge should complete the affidavit with the information given to him by the complaining party. The complaining party and the magistrate or municipal judge must sign the affidavit. The affidavit is part of the arrest warrant. S.C. Code Ann. § 17-13-160 requires all arrest warrants be completed on forms prescribed and approved by the state Attorney General. All arrest warrants issued by summary court judges must be on numbered forms distributed by S.C. Court Administration. They are generally disclosable to the public upon service of the warrant because of requirements of the state Freedom of Information Act (see 801089 Op. Atty. Gen).

## **2. Probable Cause Requirement**

Before the magistrate or municipal judge may issue the arrest warrant for execution, he must determine whether or not there is probable cause to believe that the named defendant committed the alleged offense. It is at this stage that the judge must not only ensure that the execution of the law is in proper form, but he must also exercise his independent judgment. The arrest warrant process should not be treated as a bureaucratic process in which the magistrate or municipal judge becomes merely a rubber stamp for the police. The judge should not allow himself to become an agent of the police. It is the judge, not the police officer or citizen, who decides whether the prosecutorial power of the State should be brought to bear against a person.

Both the Fourth Amendment of the U.S. Constitution and Article I, Section 10 of the S.C. Constitution protect every person from “unreasonable seizures.” An arrest must be based on probable cause, otherwise it is an “unreasonable seizure.” “Probable cause” may be defined as a substantial and objective belief that the person to be arrested committed the alleged offense. Probable cause does not mean an absolute certainty, but it is more than a mere suspicion.

Therefore, the magistrate or municipal judge must find within the complainant’s affidavit enough information that will justify a reasonable belief that a crime has been committed and the person to be arrested committed the offense. The information in the affidavit must be such that the magistrate can make the determination of probable cause, meaning the affidavit must contain facts, not conclusions. For example, if the complainant merely says, “I swear under oath that Brian Smith stole an automobile,” it is conclusory and insufficient.

Finally, probable cause must exist at the time the warrant is issued, i.e. ultimate proof of guilt will not cure the lack of probable cause at the time of issuance. Whether probable cause exists depends upon the totality of the circumstances surrounding the information at the officer’s disposal. *State v. George*, 323 S.C. 496, 476 S.E.2d 903 (1996), *cert. Denied*, 520 U.S. 1123 (1997).



## **Bench Warrants**

A bench warrant is a form of process issued “from the bench” for the attachment or arrest of a person. S.C. Code Ann. § 17-13-160 requires that all arrest and search warrants be in a form prescribed by the Attorney General. It is the opinion of the Attorney General that bench warrants “...not being arrest warrants per se, are not required to be in such form” (1978-79 Op. Atty. Gen. No. 78-179, October 31, 1978).

A bench warrant, regardless of its form, may not be used to initiate a criminal action. It is used to bring a defendant back before a particular court on a particular charge for a specific purpose after the court has acquired jurisdiction over the defendant on that particular charge by virtue of a previously served proper charging paper.

Common examples of instances where bench warrants might be issued are (1) where the defendant, under recognizance, fails to appear; (2) where the defendant, under sentence, fails to properly pay a fine or otherwise comply with the sentence; (3) where the defendant, tried in his absence, must now be brought before the court to comply with the sentence; and (4) where a witness, having failed to respond to a subpoena, must now be brought before the court.

S.C. Code Ann. § 38-53-70 provides that “if a defendant fails to appear at a court proceeding to which he has been summoned, the court must issue a bench warrant for the defendant.” While a bench warrant might be issued to bring the individual back into court to dispose of the original charge, a regular arrest warrant must be executed and issued before a bench warrant could be issued for the defendant.

Bench warrants are generally disclosable to the public upon service of the warrant. If it is issued in open court, it should be disclosed upon issuance (See 8-1-89 Op. Atty. Gen.).

## **Fugitive Warrants**

The right of one state to demand of another state the return of a fugitive from its justice is controlled by Article IV, Section 2, Clause 2 of the U.S. Constitution and its effectuating statutes.

“A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.”

For a state to invoke its constitutional right of extradition, all of the criteria in this provision must be present. The person sought must be formally charged with a crime in the demanding state. It is immaterial that the crime with which he is charged is not an offense in the state from which extradition is sought. (35 C.J.S. Extradition, Section 7). Also, he must

have fled from the demanding state and be a fugitive from justice.

To help apprehend fugitives from other states, South Carolina allows the issuance of fugitive arrest warrants pursuant to Section 17-9-10. It provides:

“Any officer in the state authorized by law to issue warrants for the arrest of any person charged with crime shall, on satisfactory information laid before him under the oath of any credible person that any fugitive in the state has committed, out of the state and within any other state, any offense which by law of the state in which the offense was committed is punishable either capitally or by imprisonment for one year or upwards in any state prison, issue a warrant for such fugitives and commit him to jail within the state...”

The warrant must be “based upon an affidavit sworn to, setting forth the facts as of the personal knowledge of the affiant” (1940-41 Op. Atty. Gen. 171). A warrant issued upon an affidavit made “upon information and belief” cannot be honored (*Ex Parte Murray and Harris*, 112 S.C. 342, 99 S.E. 798) unless the information source is revealed “so that if the things recited were not true, the person making the affidavit would be guilty of perjury” (1940-41 Op. Atty. Gen. 171). The warrant “may also be based upon certified copy of Indictment, upon which a ‘True Bill’ has been returned by a grand jury” (1940-41 Op. Atty. Gen. 170).

S.C. Code Ann. § 17-9-10 requires the alleged crime be punishable by imprisonment for at least one year in the state in which it was committed (1967-68 Op. Atty. Gen. No 2524, p. 214). If the offense is not punishable by imprisonment for one year, the warrant should not be issued. It is the duty of the issuing judge to ascertain the punishment. “It is suggested that you might be well advised to require a certified copy of the law of the state demanding the fugitive in every case so that you can make a determination as to whether or not a fugitive warrant can be issued (1967-68 Op. Atty. Gen., *Id.*). S.C. Code Ann. § 17-9-15 provides that upon demand of the executive authority of another state, the governor of South Carolina may extradite a person in this state who is charged in another state with committing an act in this state or a third state which intentionally resulted in committing an offense in the requesting state. This section closes a loophole in South Carolina’s extradition laws. Before this section was added, there was no authority for the state to extradite a person who solicited another person to commit a crime in another state because the South Carolina resident was not present in the other state at the time of the crime.

Any person arrested on a fugitive warrant has the right to be released “on bail as in cases of similar character offenses against the laws of this state” (S.C. Code Ann. § 17-9-10). When setting bail, the judge must compare the crime to a similar crime in South Carolina and make the same considerations he would have made if that offense had been committed in this state. Any fugitive granted bail should be ordered to appear at the place and time specified in a notice from either the governor’s or Attorney General’s office. Usually, the extradition hearing will be conducted in the Attorney General’s office. Notice of the hearing will be by mail.

If the fugitive is not entitled to bail, he may be committed to jail for 20 days unless the state seeking his return makes a demand before the expiration of the 20 days. If no demand is made within the 20 days, “the fugitive shall be liberated, unless sufficient cause be shown to the contrary” (S.C. Code Ann. § 17-9-10). Liberation does not mean that he is released absolutely and that the demanding state has abandoned its extradition efforts. It merely means that the fugitive is released from jail so as to prevent unreasonably long confinements pending receipt of the demand. *Bolton v. Timmerman*, 233 S.C. 429, 105 S.E.2d 518 (1958).

When a warrant issued pursuant to § 19-9-10 is returned to the issuing judge upon the fugitive’s arrest, the magistrate or municipal judge must “keep a record of the whole proceedings before him and immediately transmit a copy thereof to the Governor of this State” (S.C. Code Ann. § 17-9-20). The magistrate or municipal judge must file the original warrant and all other papers pertaining to the case with his office. The warrant and papers are not transmitted to the clerk of court because these cases cannot be disposed of in General Sessions Court and are not within that court’s jurisdiction. Extradition cases are handled through the governor’s office, with the assistance of the Office of the Attorney General. It is the governor who declares if the person will be extradited. Send a copy of fugitive warrant and related paperwork to: Extradition Coordinator, Office of the Governor, PO Box 12267, Columbia, SC 29211. Telephone number: 803.734.6453.

## **Bail Proceedings**

The right to bail pending trial is guaranteed to all persons by Article I, Section 15 of the S.C. Constitution in all instances except in capital cases or offenses punishable by life imprisonment. The Constitution further provides that excessive bail cannot be charged. A magistrate or municipal judge cannot, therefore, set bail at a figure higher than an amount reasonably calculated to ensure the presence of the accused at trial. See *Stack v. Boyle*, 342 U.S. 1, 72 S.Ct. 1, 96 L.Ed.3 (1961).

## **Authority of Magistrate and Municipal Judges to Set Bail**

S.C. Code Ann. § 22-5-510 (A) provides that, “[m]agistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly...magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event. ‘Violent offenses’ as used in this section means the offenses contained in §16-1-60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.” S.C. Code Ann. § 22-5-510(B) provides that “[a] person charged with a bailable offense must have a bond hearing within 24 hours of this arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.” This section does not apply to persons

arrested on a bench warrant or arrested for a parole violation. The judge who issues the bench warrant should be the one to release the prisoner. Only a circuit judge can grant bond for a person arrested for a parole violation (S.C. Code Ann. § 24-21-680).

Municipal judges have the same authority as magistrates to set bail by virtue of S.C. Code Ann. § 14-25-45. Summary court judges are the judicial officers who normally and most frequently set bail in South Carolina. Jailors, law enforcement officers and Solicitors have no authority to set bail. There are certain limited exceptions to this rule. In traffic cases, a highway patrolman may accept a sum of money as bail in lieu of immediately taking the defendant before a judicial officer (S.C. Code Ann. § 56-25-30). In cases of litter control, any officer authorized to enforce such laws may accept a cash bond in lieu of requiring an immediate court appearance (S.C. Code Ann. § 16-11-710). In cases of fish and game law violations, a game warden may accept a sum of money as bail in lieu of immediately taking the defendant before a judicial officer (S.C. Code Ann. § 50-3-410).

Usually, the admitting magistrate or municipal judge is the judge in whose territorial jurisdiction the crime has been committed. If the arrest is made in a county other than that in which the offense is charged, the magistrate or municipal judge at the place of arrest may set bail. See *State v. Rabens*, 79 S.C. 542, 60 S.E. 442 (1908). Once bail is set by a magistrate or municipal judge, absent “compelling circumstances,” no other magistrate or municipal judge is authorized to amend the original order setting bail. (Op. Atty. Gen. No. 80-39, 1980). The judge who originally set the amount of bail, when presented with new information, might reconsider the bail which he had set earlier, provided the case has not been transferred to General Sessions Court. It would be inappropriate for a magistrate or municipal judge to hear the facts and change the bond set by another magistrate or municipal judge, unless there are compelling circumstances which prevent the first judge from hearing the motion.

By Order of the Chief Justice dated September 19, 2007, bond proceedings must be conducted twice daily, once in the morning and once in the evening, at specific times as arranged by the chief magistrate in each county. The Chief Justice must approve any deviation from this requirement in writing. If, under extraordinary circumstances, the on-call magistrate is requested to conduct a bond hearing at a time other than specified, hearings shall be held for the entire jail population eligible for release. The on-call magistrate shall immediately inform the chief magistrate that a special bond proceeding was conducted. Preferential bond hearings are strictly prohibited and are considered a violation of the Rules of the Judicial Conduct, Rule 502, SCACR. The Order also clarified that a bond hearing shall not be conducted over the telephone and orders of release shall not be transmitted by facsimile from remote locations. The only exception to those requirements are counties where videoconferencing of bond hearings is approved by Order of the Supreme Court dated August 6, 2003.

### **Victims’ Rights at Bond Hearings**

S.C. Code Ann. § 16-3-1525(H) pertains to cases in which a defendant has bond set by a

summary court judge. Sections 16-3-1525(H) (2) and (3) apply to summary court judges. Under subsection (2), “the summary court judge, before proceeding with a bond hearing in a case involving a victim, must ask the representative of the facility having custody of the defendant to verify that a reasonable attempt has been made to notify the victim sufficiently in advance to attend the proceeding.” Section 16-3-1525(N) requires that notification may not be only by electronic or other automated communication or recording. After three such unsuccessful attempts, personal contact with the victim should be attempted. If notice was not given in a timely manner, the hearing must be delayed for a reasonable time to allow notice.

Subsection (3) requires the summary court judge to “impose bond conditions which are sufficient to protect the victim from harassment or intimidation by the defendant or persons acting on the defendant’s behalf.”

### **Conduct of Bail Proceedings**

The bail proceeding is frequently the first contact between the accused and a judicial officer, with respect to the particular offense(s). For this reason, the bond proceeding is a very important phase of the criminal process, though it has never been held to be a state at which the accused has the right to be represented by counsel. The accused may have his attorney present, but he has no absolute right to be represented.

At the time of the bail proceeding, the accused should be given certain information and be informed of certain rights. The judge should explain the nature of the charge(s) against the accused, being certain that he fully understands the charge and the possible penalties involved.

The accused should be informed that he has the right to remain silent and that anything he says can be used against him in a court of law. He has the right to talk to a lawyer and have a lawyer present at any time during interrogation or questioning by law enforcement officers. He should be informed that if he would like to be represented by a lawyer but cannot afford one, a lawyer will be appointed to represent him. He need not talk to any law enforcement officers after he says that he would like to have a lawyer present or that he does not wish to say any more.

Pursuant to South Carolina Rules of Criminal Procedure Rule 2, when a magistrate or municipal judge conducts a bail proceeding for an accused who is to be tried in General Sessions Court, that judge must inform the accused of his right to request a preliminary hearing. The notice must be provided both orally and in writing. Also the judge must provide the accused with a simple form for requesting a preliminary hearing, which the accused need only sign and return to the judge.

The judge should notify the defendant that he has a right to be present at his trial, and the trial will proceed in his absence should he fail to attend the court. (Rule 16, South Carolina

Rules of Criminal Procedure). The defendant acknowledges in writing he has received such notice when he signs the bond form. If he fails to acknowledge receipt of the notice, the judge should file a statement, in writing, that he notified the defendant of these rights.

### **Factors to Consider and Forms of Release**

S.C. Code Ann. § 17-15-10 et seq. requires that certain findings and inquiries be made. Section 17-15-39(A) provides that in determining which conditions of release to impose, the magistrate or municipal judge may take into account the nature and circumstances of the offense charged, family ties of the accused, employment, financial resources, character, mental condition, the length of his residence in the community, his record of convictions and any record of flight to avoid prosecution or failure to appear at other court proceedings. Section 17-15-30(B) requires the court consider the accused's criminal record, if any. The court shall consider, if available, all incident reports generated as a result of the offense charged.

When considering the release of a person on bond who is charged with a violent offense as defined in § 16-1-60, the person is a household member as defined in § 16-25-10, and the person: (1) is subject to the terms of a valid order of protection or restraining order of this state or another state; or (2) has a previous conviction involving the violation of a valid order of protection or restraining order of this state or another state, Section 16-25-120 requires the court consider the following factors for release of that person on bond: (1) whether the person has a history of criminal domestic violence or a history of other violent offenses; (2) the mental health of the person; (3) whether the person has a history of violating orders of a court or other governmental agency; and (4) whether the person poses a potential threat to another person. Additionally, when considering release of a person on bond under this section, the court must consider whether to issue a restraining order or order of protection against the person, using the criteria described above. If the court determines such an order is appropriate, it should issue the order or forward the matter to the appropriate court.

In cases of bonding individuals charged with harassment or stalking, a magistrate or municipal judge may order a defendant to undergo a mental health evaluation, performed by the local mental health department, to determine if the defendant needs mental health treatment or counseling as a condition of bond. The evaluation must be scheduled within 10 days of the order of issuance. Upon completion of the evaluation, the examiner must report his findings, within 48 hours, to the local Solicitor's office or summary court judge, for consideration by the bonding judge.

Under S.C. Code Ann. § 17-15-10, any person charged with a noncapital crime must be released pending trial on his own recognizance without surety, unless the judge determines that such release would not reasonably ensure the appearance of the accused at trial or would result in an unreasonable danger to the community. "Release on his own recognizance" means the accused does not have to have sureties but must be released if he signs an unsecured bond in the amount specified by the magistrate. The accused does not have to be

actually worth the amount which the judge sets in case of property nor does he have to get a surety who is worth that amount in order to obtain his release. The amount set in the recognizance is simply an acknowledgement of an indebtedness to the state in the amount specified, which becomes absolute if the accused fails to comply with the conditions imposed.

Unless the magistrate or municipal judge can make a determination that the defendant falls within one of the two exceptions, there is reason to believe that the defendant will not appear at his trial or he would create an unreasonable risk to the community, no conditions can be imposed on his release except that he should personally appear at subsequent proceedings in the case, remain on good behavior and not depart the state (S.C. Code Ann. § 17-15-20).

If the magistrate or municipal judge determines in a noncapital case that the defendant's release on his own recognizance would not reasonably ensure his appearance or would result in unreasonable danger to the community, the defendant still has a constitutional right to bail. The judge may impose one or more of the conditions listed in § 17-15-10:

1. require the execution of a bond with good and sufficient sureties
2. place the accused in the custody of a designated person or organization agreeing to supervise him
3. place restrictions on travel, association or place of abode of the accused during the period of release
4. impose any other condition deemed reasonably necessary to ensure appearance, including a condition that the person return to custody after specified hours.

If the magistrate or municipal judge finds that an unconditional release would create an unreasonable risk of flight or would create a risk to the community, and also finds that a secured bond is the best condition suited for the case the defendant may come up with one of several kinds of security which the judge must accept. The defendant must obtain a certificate of security from the county clerk of court's office or pay the cash bond or ten percent of the surety.

A magistrate or municipal judge may accept a real property interest as security for a bail bond. The defendant may be permitted to deposit cash or negotiable securities, such as certified check, equal to the amount of the bond. *State v. Harrelson*, 211 S.C. 11, 43 S.E.2d 593 (1947). "South Carolina does not permit any judge to require that bond be in cash." (1973 S.C. Op. Atty. Gen. 55). In cases of state or municipal motor vehicle violations, S.C. Code Ann. § 17-15-230 requires a magistrate or municipal judge accept, in lieu of a cash bail or bond, guaranteed arrest bond certificates, in an amount not to exceed \$1500, issued by an automobile club or association. However, these certificates are unacceptable when the offense is driving under the influence of intoxicating liquors or drugs or for a felony.

S.C. Code Ann. § 14-1-214 authorizes the payment of fines, fees, assessments, court costs

and surcharges by credit or debit card. This authority would include bond payments. The statute authorizes imposing a fee for processing a payment by credit card. The fee should not exceed the amount to wholly offset the cost of processing the credit card payment.

A person charged with an offense triable in magistrate or municipal court is entitled to deposit with the magistrate or municipal court a sum of money not to exceed the maximum fine in the court for which the person is to be tried (S.C. Code Ann. § 22-5-530). In a jurisdiction in which the governing body has established a system for receiving deposits, in lieu of recognizance, a person held or incarcerated in a jail or detention center who is entitled to deposit a sum of money in lieu of entering into a recognizance under § 22-5-530 may secure his immediate release from custody by paying to or depositing the sum of money with the jail or detention facility in which he is being held. The provisions of § 22-5-530 do not extend to those individuals charged with crimes involving victims. Those individuals must appear before a judge for a bond hearing. The statute specifically requires an individualized hearing be held when the defendant is charged with a violation of Chapter 25, Title 16 as it related to criminal domestic violence. Additionally, the Chief Justice, by Order dated December 11, 2003, confirmed that the ability to immediately release persons pursuant to this statute is limited by § 16-3-1525(H), requires the victim of any crime be notified of the defendant's bond hearing. If notification is not given in a timely manner, the bond hearing must be delayed, for a reasonable time, to allow notice. The December 11, 2003 Order requires prior approval of the Chief Justice to implement a procedure allowing the deposit in lieu of recognizance.

The magistrate or municipal judge, or jailor in the situation cited above, should give a receipt for all cash or items deposited as security then put them in safekeeping. If the case is beyond the trial jurisdiction of the magistrate or municipal judge, the money should be turned over to the clerk of court (S.C. Code Ann. § 17-15-200). If the defendant appears at the trial and otherwise complies with the conditions of the bond, he does not forfeit the bail. He is entitled to a return of the items (S.C. Code Ann. § 17-15-220). An attorney cannot be taken as bail (S.C. Code Ann. § 38-53-190).

In lieu of requiring actual posting of bonds as provided in item (a) of § 17-15-10, the court setting bond may permit the defendant to deposit in cash with the clerk of court an amount not to exceed 10 percent of the amount of bond set (S.C. Code Ann. § 17-15-15(a)).

Therefore, a judge is given an alternative to requiring a surety, even when he has determined that a personal recognizance bond would not be appropriate under the circumstances. The judge can permit the defendant to deposit cash, in an amount designated by the judge, with the clerk of court. The defendant is still obligated to the full amount of bond upon breach of condition. This option is available to the judge in offenses which will be tried in magistrate court, as well as those which will be tried in General Sessions Court.



## **Municipal Ordinances**

### **Business Licensing**

Business licenses are issued by the municipality for any and all businesses who conduct business within city limits. If a company conducts business in the municipality and/or has a store or physical location within the city limits, it is usually necessary for them to have a business license. The city has a business license office that oversees the administration of these licenses and the enforcement for those who conduct business within the city limits without the required license. These cases are usually scheduled on a certain court date with all of those cases being called on the same date and time. It is important to know that these types of cases are both civil and criminal. Because businesses are not “individuals,” their rights differ dramatically. Enforcement of business licenses is usually handled through an administrative process in which most of these cases may result in a deferral until the license and fees are paid by the business or result in a monetary fine without necessity of a criminal conviction.

### **Code Enforcement**

Code enforcement is also an administrative department for municipalities. These types of cases may include the following: abandoned cars, overgrown trees, signs, animals that become a nuisance and other activities which infringe on neighbors’ rights. Most of these cases are resolved administratively with the individual being allowed some type of deferred period to resolve the action. Some municipalities have developed a livability court.

A livability court is designed to handle these types of cases outside of regular municipal court days in which traffic tickets and other criminal violations are handled. The purpose of livability court is to allow neighbors to resolve their disputes in a manner that is beneficial to the community. The goal of these type of cases is to have the matter resolved so that the action or inaction resulting in the citation is corrected in a timely fashion.

## **Jury Trials, Jurors and New Trials**

### **Summary of Jury Trial Procedure**

1. Introductions
2. Jury Roll Call
3. Qualified Jury (Solicit “voir dire” questions from defendant and state attorney, in addition to statutory minimum questions.)
4. Impanel Jury
5. Appoint Foreman

6. Excuse Remaining Jurors
7. Arraign Defendant (may be waived)
8. Opening Statements
  - a. State
  - b. Defense
9. State's Case in Chief
10. Defense's Case (if any)
11. State's Case in Reply
12. Closing Arguments
  - a. State Opens (on the law only or in full)
  - b. Defense Summary
  - c. State Closes (in full if opened only upon the law or closes in reply if opened in full)
13. Jury Charged
14. Read the Ordinance or Statute (never the penalty provisions)
15. Return Jury to Jury Room (Caution: There must be no discussions until the jury receives the verdict form with instructions to proceed with deliberations)
16. Any Additions, Corrections or Omissions To or From Jury Charge As Given
17. Recall Jury to Court Room if Corrections or Additions Are Needed
18. Send Verdict Form to Foreman via Clerk with Instructions to Commence Deliberations
19. Receive Verdict
20. Clerk Publishes the Verdict
21. If Guilty, Poll Jurors for Individual Response (if requested)
22. Thank and Dismiss Jury
23. Sentence/Release Defendant
24. Adjournment

## **Preliminaries To Jury Trial**

Once the six jurors have been drawn, the magistrate should administer the oath. A suggested form is "Do each of you solemnly swear or affirm that you will well and truly try this cause and render a true verdict according to the law and evidence produced before you, so help you God?"

If for any reason, religious or otherwise, a juror who wishes to serve has objection to the making of the oath, the juror may make a solemn and conscientious affirmation and declaration of his duty to serve and render a true verdict. This is sufficient to constitute a valid oath.

The judge, at this point, may appoint a foreman from the six jurors impaneled. He may allow the jury to retire and choose its own foreman.

## **Introductory Remarks**

After the jurors are seated, the judge should make introductory remarks to inform the jury about both the general and specific nature of the trial which they are to hear. The judge may give a brief outline of the steps to be followed during the trial which could be helpful to the jury. An example appears below.

The parties, or their attorneys, will make an opening statement of the case as they see it. The plaintiff makes his statement first and the defendant follows. This opening statement is purely a matter of choice and no conclusions should be drawn by you (the jury) if one party or both prefer not to make an opening statement.

The opening statement is not evidence, but merely a statement by the parties as to how they view the case.

After the opportunity for making the opening statements ends, the plaintiff will present his case in chief. He will offer witnesses or whatever other forms of evidence necessary to prove his case. When the plaintiff rests his presentation, the defendant then will present his case in chief.

Next the parties will be given an opportunity to offer evidence to rebut that of the opposing party, but this is their choice.

The parties will make their closing arguments. These are merely their summations of the case and are not to be considered as evidence.

You will then be given your instructions, or the charge, by me regarding the law governing the case. You must take the law and apply it to the facts.

Finally, you will retire to deliberate on the case and render your verdict.

Aside from the explanation of the trial procedure, some of the following instructions, where appropriate, may be made:

It is your duty to determine the facts of the case from the evidence and from reasonable inferences arising from such evidence. You must not indulge in guesswork or speculation.

The evidence which you are to consider is the testimony of the witnesses and exhibits admitted into evidence as well as any admissions or stipulations.

A witness is a person who testifies in a case.

At certain times during the trial, there may be objections to evidence. The admission of evidence is governed by rules of law. When an objection is made, you must not draw any inference because of the objection or from the fact that the question was asked.

You must not consider any evidence that I instruct you to disregard. You must not infer that I am leaning in favor of either party because of that ruling. You are reminded that opening statements and closing arguments, if offered, are only for the purpose of assisting you in understanding the evidence in applying the law. They do not constitute either law or evidence.

### **Final Instructions To The Jury**

At the conclusion of the closing arguments, the magistrate should instruct the jury as to the law applicable to the facts in the case. Though there are no specific provisions as to jury instructions (or charges) in magistrate court, such instructions should include all matters of law which the magistrate considers necessary for the jury in its deliberations.

The judge may, at the beginning of the trial, inform the parties or their attorneys that they may submit suggested charges they would like read to the jury. The magistrate should examine these submitted instructions, eliminating those not supported by sufficient evidence or by law, as well as those which duplicate any instructions he intends to give. Instructions should be as brief as possible, while at the same time clear and understandable. Repetition or duplication of instructions should be avoided as it gives the appearance of undue emphasis on the point.

The judge himself should charge the jury. It should never be done by one of the parties or counsel. The following are suggested instructions:

You have heard all the evidence presented by the plaintiff and the defendant.

It is your duty to determine the facts and to determine them from the evidence and the reasonable inferences arising from the evidence. In so doing, you must not indulge in guesswork or speculation. You must not be influenced by prejudice, passion or sympathy.

The evidence which you are to consider consists of the testimony of witnesses and the exhibits admitted in evidence. You must not concern yourself with the objections or the reasons for any rulings. You must not consider testimony or exhibits to which an objection was sustained, which has been ordered stricken, or which I have instructed you to disregard.

Opening statements and closing arguments of the attorneys are intended to help you in understanding the evidence and applying the law, but they are not evidence.

No statement, ruling or remark which I may have made during the course of the trial is intended to indicate my opinion as to what the facts are. You are to determine the facts. In this determination, you alone must decide upon the believability of the evidence and its weight and value. In considering the weight and value of the testimony of any witness, you may take into consideration the appearance, attitude and behavior of the witness, the interest of the witness in the outcome of the case, the relation of the witness to any parties to the case, the inclination of the witness to speak truthfully or not, the probability or improbability of the witness' statements, and all other facts and circumstances in evidence. Thus, you may give the testimony of any witness just such weight and value as you believe the testimony of such witness is entitled to receive.

Next, the jury should be instructed on the standard of proof by which they must make its determination: "You must deliver a verdict in accordance with the preponderance of the evidence."

### **Submission of the Case**

After completing instructions to the jury, the judge must ask the parties if there are any additions or corrections to the charge as given, and the jury should be retired to the deliberation room. The jurors should take with them into the jury room all papers received in evidence and any exhibits admitted.

If a question should arise during the course of the jury's deliberations, the judge should ascertain from the foreman the nature of the question. If the question is of a factual matter, the magistrate should instruct the jury that their recollections of factual matters are their only guide as there is usually no record of the testimony available.

If trial testimony was recorded or transcribed by an authorized stenographer or reporter, the

magistrate may allow the transcript in the deliberation room for the jury's consideration. If the question is of a collateral nature, or is not relevant to the issues to be determined, the magistrate should instruct the jury to ignore it and continue its deliberations. If the question is one pertaining to the law affecting the issues of the action, the magistrate should re-read that part of his instructions dealing with the point causing the jury's confusion. If that is not sufficient to clarify the issue of law, the magistrate may prepare, with the assistance of the parties if he desires, further instructions for the jury.

If the jury is unable to reach a unanimous verdict and so informs the magistrate, he should reconvene the jury in the courtroom and remind the jury of its obligation to reach a verdict. The jury should then be returned to the jury room for further deliberation. A suggested charge for this situation is as follows: "In many cases considered by juries, absolute certainty cannot be attained or expected. Although the verdict to which a juror agrees must of course be his own verdict, the result of his own convictions, and not mere acquiescence in the conclusion of his fellows. Yet, in order to bring six minds to a unanimous result, you must examine the questions submitted to you with candor, and with a proper regard and deference to the opinions of each other. You should consider that the case must at some time be decided. You are selected in the same manner, and from the same source, from which any future jury must be, and there is no reason to suppose that the case will ever be submitted to six people more intelligent, more impartial, or more competent to decide it, or that more or clearer evidence will be produced on the one side or the other. And with this view, it is your duty to decide the case, if you can conscientiously do so."

## **Court Interpreters**

State law provides that whenever a deaf person (S.C. Code Ann. §15-27-15) or a non-English speaking person (S.C. Code Ann. §15-27-155) is a party, witness or juror to a civil or criminal court proceeding, the court must appoint as many qualified interpreters or deaf relay interpreters to interpret the proceedings and the testimony of the party or witness. The following procedures are provided as general guidelines when a deaf person or a non-English speaking person who needs an interpreter.

1. The court must complete an order of appointment for an interpreter, SCCA/262.
2. The court should notify the interpreter of his appointment.
3. Once the interpreter's services have been rendered, the interpreter is responsible for completing a timesheet (SCCA/264) and a Request for Payment (SCCA/263).
4. The timesheet, SCCA/264, should detail the actual hours spent interpreting at the completion of the court proceeding. Interpreters will be compensated for mileage but not for travel time.
5. Upon completion of the proceeding, the court should review, verify and sign the completed Request for Payment (SCAA/263).
6. The interpreter should mail the original or a certified true copy of these forms to S.C. Court Administration.

7. The court should retain a copy or the original of these forms for its record.

S.C. Code Ann. § 17-1-50 defines interpreters in criminal proceedings.

S.C. Court Administration makes available to each county clerk office and the summary courts a Court Interpreter Directory to identify certified and/or qualified interpreters.

On February 10, 2003, Chief Justice Jean Toal signed an order regarding the acceptable use of telephonic foreign language interpreter services in the magistrate and municipal courts. For more information regarding this service, visit [www.LanguageLine.com](http://www.LanguageLine.com).

## **Records Management and Database Searches**

### **Court Docket**

Although magistrate courts use the Magistrate Criminal Docket form supplied by S.C. Court Administration as the official record of criminal and non-traffic court proceedings, there is no mandated or official docket for municipal courts in South Carolina. Municipal court dockets generally contain the following information.

- a. Defendant's name (last, first, middle initial)
- b. Ticket number
- c. Disposition date (court date)
- d. Offense and violation section number
- e. Officer's name
- f. Receipt number
- g. Disposition of case (guilty, not guilty, etc.)
- h. Total amount collected
- i. Fees and assessment amounts

Each municipal court may have a different style of docket, especially if the dockets are generated by a computer system. However the above information may be included in the docket based on the judge's request.

Each court is required to maintain three types of dockets: traffic, criminal and parking (if applicable). However, municipal courts may have only one combined docket with traffic, criminal and parking included on the same docket, particularly if the court utilizes a computer-generated docket.

### **Filing of Documents and Required Notices**

#### **Reports of Monies**

S. C. Code Ann. § 14-25-85 requires that monies be turned over to the city treasurer immediately. A copy of the case disposition and the cash collection report (created through the court's software program, if applicable) should be transmitted with daily deposits (especially if deposits total more than \$250) to provide for proper accounting of monies deposited with the city treasurer.

#### **Filing of Warrants and Related Papers with Clerk of Court**

Pursuant to Rule 78 SCRCPP and Rule 3 SCRCrimP, the clerk of court has established the following procedures to be used in criminal cases beyond the trial jurisdiction of the magistrate or municipal judge.



Within 15 days of the arrest of the accused, the municipal judge shall forward the original arrest warrant, the bond document (i.e. Bond Form # 1 or # 2) and any other papers, including a check for cash bonds, pertaining to the case to the clerk of court. In addition, the municipal judge should attach a completed "Certificate of Transmittal" (Form SCCA-215) to these papers.

The municipal judge is responsible for securing the return of the original warrant after the arrest of the accused and transmitting the papers within 15 days of the arrest.

### **Notice to Clerk of Court and Solicitor of Request for Preliminary Examination**

In those cases in which the accused timely requests a preliminary examination, the municipal judge should request from the clerk of court a certified copy of the arrest warrant and notify the Solicitor of the defendant's request. This should be accomplished by completing the "Notice to Clerk of Court and Solicitor of Judicial Circuit" (Form SCCA-509) and mailing a copy of this form to both the clerk of court and the Solicitor.

### **Return of Papers to Clerk of Court After Preliminary Examination**

After holding the preliminary examination, the municipal judge should forward all papers related to the case immediately to the clerk of court. These papers (endorsed legibly with the title of the case, nature of the offense, kind of proceeding and judge's name) should include a report of the case with the names and addresses of all material witnesses and a synopsis of all testimony. The municipal judge should complete and attach a "Certificate of Transmittal" (Form SCCA-215) to these papers and forward them to the clerk of court.

### **Papers to Clerk of Court in Criminal Appeals**

In cases of criminal appeals from the municipal court, if the appellant serves notice of appeal upon the municipal judge or the clerk of municipal court within the 10-day time period, the municipal judge must make a return. The return consists of the written report of the charges preferred, the testimony (the reporter's transcript, if taken by a reporter), the proceedings, and the sentence or judgment, to the Court of Common Pleas (S.C. Code Ann. § 14-25-105).

### **Report to S.C. Law Enforcement Division**

"A first offense shoplifting prosecution or second offense resulting in a conviction shall be reported by the magistrate or municipal court judge hearing the case to the Communications and Records Division of the South Carolina Law Enforcement Division which shall keep a record of such conviction so that any law enforcement agency can inquire into whether or not a defendant has a prior record" (S.C. Code Ann. § 16-13-111).

All depositions should be reported to SLED. This report should include the defendant's name, sex, race, date of birth, social security number, date of arrest, arresting

agency, date of conviction, final disposition (including sentence), original charge, and the municipal court judge's name and municipality (S.C. Code Ann. § 34-11-95, fraudulent check violations; S.C. Code Ann. § 16-11-610 and S.C. Code Ann. § 50-1-90, certain trespassing offenses).

### **Reports to S.C. Court Administration**

S.C. Code Ann. § 22-1-150 and S.C. Code Ann. § 22-1-160 require magistrates and certain magistrates' employees to enter into bonds for the faithful performance and discharge of their duties. There is no bond requirement for municipal judges or their staff, unless required by municipal ordinance.

### **Criminal Case Disposition Timelines**

A February 14, 2011, Order of the S.C. Supreme Court addresses the timely disposition of criminal summary court cases, including traffic cases. The Order requires the disposal of all non-jury criminal cases, including non-jury traffic cases, within 60 days of the initial filing. Jury criminal cases, including jury traffic, must be disposed within 120 days of the initial filing.

Additionally, municipal judges are required to report to S.C. Court Administration (upon request) the reason that any criminal cases, including traffic cases, have not been tried or otherwise disposed within the prescribed time limits.

### **Other Reports**

- a. Municipal court workload report for period July 1, \_\_\_\_ through June 30, \_\_\_\_ (due July 15 annually)
- b. Judicial survey (due August 31 annually)
- c. Rule 501 SCACR disclosure form (due April 15 annually)
- d. Continuing legal education (CLE) form for period July 1, \_\_\_\_ through June 30, \_\_\_\_ (due July 15 annually)

### **Records Retention**

Records management is defined as the systematic analysis and control of recorded information. Inasmuch as records are essential to government and the ability to reference information accurately and quickly lies at the center of the clerk of court's functions, a continuing records management program is critical to the successful operation of this office. One of the primary means of managing records is through the use of records retention/disposition schedules which name and describe records, recommend how long

those records should be kept, and indicate what the final disposition should be. Retention schedules may also include recommendations or options for inactive or archival storage.

Included in the appendix of this manual are the records retention and disposition schedules developed by the S.C. Department of Archives and History. These schedules have been approved by S.C. Court Administration and adopted by Order of the Chief Justice. For more information, contact the Archives and Records Management Department at the S.C. Department of Archives and History by phone at 803.896.6123 or [www.state.sc.us/scdah/statelcl.htm](http://www.state.sc.us/scdah/statelcl.htm).

### **Change of Venue**

- a. When the venue is changed to another court, the following procedures should be followed.
  1. The forwarding court should send to the receiving court:
  2. all original documents in the case jacket
  3. all transcripts, depositions and exhibits filed with the court in that case
  4. a certified copy of the order changing venue
  5. a transmittal acknowledging receipt or use by the receiving court
- b. The case jacket left in the forwarding court should contain
  1. certified copies of all original documents
  2. the transmittal acknowledgment after its return
  3. the original change of venue order
- c. The receiving court should
  1. review the materials received to make sure that all items listed on the transmittal letter have been received, and
  2. establish a case jacket for the new case in accordance with previous instruction.

**Note:** the forwarding court should be notified **immediately** upon the discovery that any material listed as being transmitted was not received.

### **Expungements**

On June 2, 2009, Governor Sanford signed into law Act No. 36, addressing the process for expungement of criminal records in both the circuit and summary courts. The summary courts are responsible for expunging the records of all criminal cases disposed in those courts that have been dismissed, nolle prossed or in which the defendant is found not guilty at trial (S.C. Code Ann. § 17-1-40). The interpretation of “criminal cases” in this legislation has been amended to exclude Title 56 (traffic), Title 50 (DNR), and any other state criminal offense if the person is not fingerprinted for the violation. Additionally, any summary court

level fraudulent check charges which are dismissed upon the payment of restitution and the administrative fee pursuant to S.C. Code Ann. § 34-11-70(b) and (c) must also be expunged by the summary court. The summary court cannot charge a fee for the expungements. The solicitor's office in each circuit must administer expungement applications for criminal records related to conditional discharge for simple possession of marijuana or hashish, pretrial intervention or alcohol education programs (S.C. Code Ann. § 44-53-450(b), § 17-22-150(a) and § 17-22-530(a)).

### *Summary Court Expungement Process*

Upon a disposition of dismissed, nolle prossed or not guilty, the court should complete the expungement application (SCCA 223B) checking the box indicating the statutory basis for the expungement. Each order shall contain only one charge sought to be expunged, except in circumstances where expungement is sought for multiple charges from a single incident (S.C. Code Ann. § 17-1-40).

If the prosecuting agency, entity or individual files an appeal within 10 days of the disposition, the expungement process should be stopped pending the appeal.

The prosecuting agency or appropriate law enforcement agency may object in writing to the expungement within 30 days of the disposition. However, statutory reasons for an objection are limited to the following:

- a. the accused has other charges pending;
- b. the prosecuting agency or the appropriate law enforcement agency believes that the evidence in the case needs to be preserved; or
- c. the accused person's charges were dismissed as a part of a plea agreement.

If the prosecuting agency or the appropriate law enforcement agency objects to an expungement order, the prosecuting agency or appropriate law enforcement agency must notify the accused person of the objection. The agency must provide notice in writing at the address listed on the accused person's bond form, or through his attorney, no later than 30 days after the person is found not guilty or his charges are dismissed or nolle prossed.

If there is a written objection filed, the court must forward the record, including the written objection, to the circuit court with SCCA Form 223C. Then, the circuit court judge will determine whether the defendant is entitled to have the record expunged. The circuit court judge completes the form indicating whether or not the record will be expunged and returns that form to the summary court. If the circuit court determines that the record should be expunged, the summary court is responsible for completing the expungement process. The summary court will follow the circuit court's directive.

If no written objection is filed with the summary court, the judge should sign and date the order no sooner than 31, but no longer than 40, days after disposition. Then, the court must attach a copy of the disposition to the expungement order and forward certified copies of the order and disposition to the following agencies:

- a. South Carolina Law Enforcement Division, Barbara Davis, PO Box 21398, Columbia, SC 29221.
- b. The appropriate law enforcement agency which handled the case. The summary court will need to coordinate with local law enforcement agencies to obtain information concerning where to send the expungement orders and by what method of transmittal. If the charges were initiated by a courtesy summons, law enforcement personnel should still be provided with the order as they may have incident reports, investigative follow-ups, statements as well as other records which will need to be expunged.
- c. The prosecuting agency, if prosecuted by an agency other than the arresting law enforcement agency.
- d. The appropriate detention facility. If the initiating document was a courtesy summons, the detention facility does not need to receive the order.
- e. The defendant's lawyer, if any.
- f. The defendant.
- g. The county clerk of court, if necessary. No filing fee shall be charged by the clerk of court's office to a defendant seeking the expungement of a criminal record (S.C. Code Ann. § 17-1-40) where the charge was dismissed, nolle prossed or the defendant was acquitted. The court should follow normal procedures to expunge the records, including the public index. However, the common practice of "sealing" the records and maintaining them in a location accessible only by the clerk of court is not appropriate. The case number should be recorded on the order of expungement in case future reference to that case number is necessary. The expungement order should be maintained in a locked file accessible only by the clerk of court.

### **Confidential Records**

The confidentiality of certain records cannot be stressed enough. The following are, by statute, confidential records and as such are not available for public access:

- pretrial intervention program details (i.e. when an offender entered a program, when the program was completed, charges that were dismissed)
- alcohol education program details (i.e. when an offender entered a program, when the program was completed, charges that were dismissed)

- all records ordered sealed by the court
- orders of expungement and affected records

The word “CONFIDENTIAL” should be stamped on each case jacket.

The files should be kept in a locked file cabinet. Where volume prohibits keeping them in a file cabinet, an area clearly designated specifically for confidential and sealed files should be established. Only authorized personnel should be allowed access to these files, and the number of authorized personnel should be limited. Limit the access to any index of confidential records to authorized personnel.

Place jackets of cases ordered sealed into an envelope and physically seal them in such a manner that any tampering would be visibly apparent.

If any confidential documents are to be filed in a case which does not fall under the scope of a confidential file, these documents should be placed in an envelope and marked "confidential," sealed and placed in the case jacket. This envelope should also be marked with the corresponding case number. If any request is made to view the open case, the confidential envelope should be removed before turning the case jacket over to the requestor and should be replaced immediately upon the return of the jacket.

No copies shall be made of a confidential report without a written order of the court, unless authorized by statute or court rule.

### **Inactive Records Maintenance**

Records that are inactive can be more efficiently maintained in an inactive records storage facility than in the office. When properly constructed and operated, an inactive records storage facility provides the necessary protection for the records and affords reasonable access to any document that is needed. Removing inactive records from the office frees valuable office space which can then be better utilized for maintaining active records. Maintaining only the most active records in the office contributes to a more efficient office operation.

### **Access**

The contents of the file box for storage must be clearly marked on the box end. Maintain an index referencing the location of at the clerk of court's office. Also a copy of the index could be kept on-site at the storage facility.

## **Records Retention and Disposition Schedules**

### Retention schedules

- a. ensure that court records are retained as long as needed for administrative, legal, fiscal and other use;
- b. ensure that records are retained as long as required by county, state and federal laws and regulations;
- c. identify and provide protection for records of permanent value; and
- d. encourage and facilitate the systematic disposal of records no longer needed for any use.

Separate schedules have been developed for records of the circuit courts of common pleas and General Sessions, family courts, and miscellaneous records maintained by the clerks of court. The schedules are based upon the inventory and analysis of the records of a number of counties and the review and appraisal of these records in terms of their administrative, fiscal, legal and archival values. In producing these retention schedules, an attempt has been made to cover the vast majority of the court records maintained by the clerks of court. However, because of the diversity of filing procedures and functions within the various clerks' offices, additional schedules will probably be needed as well as amendments to the present schedules.

### **Interpreting the Schedules**

Each retention schedule has been designed to cover one record series or type of record. If two or more record series are filed together, the combined file must be kept for the longest retention period of those records. In addition to the title of the record series, each schedule contains a full description of the record to include its function or purpose and a listing of the information contained therein. Schedule statements are often written "\_\_\_\_years, then destroy." This means that the records should be retained for \_\_\_\_ years after the last entry in the record. Retention should be in the office of record or other appropriate records storage facility so as to maximize protection of the documents against loss from natural deterioration, disaster, or theft.

### **Schedule Implementation Procedures**

These schedules are designed to be "continuing" schedules. Once issued, they can be implemented continually until superseded by subsequent revisions or amendments. Retention periods listed in the schedules represent the minimum amount of time to retain records. After reaching the retention period, the records may either be destroyed or transferred to archives, as indicated in the schedules. If records are transferred to the S.C. Department of Archives and History, an advance request must be submitted in writing, indicating the name or names of the record series, inclusive dates and an estimate of the

volume to be transferred. Archival records should not be transferred to a local historical society, museum, public library, or other interested organizations or individuals without the written permission of S.C. Court Administration and the S.C. Department of Archives and History.

Records destroyed in accordance with approved retention schedules should be reported to the S.C. Department of Archives and History on the report on a records destroyed form. File a duplicate copy in the clerk of court's office to document the disposal of the records in accordance with the retention schedules. For copies, call the Local Records Unit with the S.C. Department of Archives and History at 803.896.6122.

### **Methods of Destruction**

No one specific method of destruction is prescribed. Recycling or incineration is preferred, but burial in a landfill is acceptable for records of a non-confidential nature. Confidential or restricted records should be reduced to an illegible condition before disposal.

### **Procedures for Amending or Making Additions to Existing Schedules**

Although the schedules included in this manual cover the majority of records maintained by the clerks of court, there may be specific situations where records cannot be assigned to an existing retention category and will necessitate either the amendment of existing schedules or preparation of additional schedules. Submit all proposed schedule additions and amendments that are needed to the S.C. Department of Archives and History. The clerk of court should submit a records series inventory form for the series to be added or amended. The Department will review and assign the request an appropriate retention period and disposition. Then the schedule will then be submitted to S.C. Court Administration for review and approval. Once this approval is obtained, the schedule will be adopted by order of the Chief Justice and will be distributed statewide.

### **Procedures for Establishing Additional Schedules for Individual Courts**

Many courts use forms and keep records that are unique to those courts. These records must be reviewed and individual retention schedules designed and approved for them. The clerk should contact the S.C. Department of Archives and History to enlist its assistance in the review and creation of retention schedules. After the retention schedules have been developed and approved within the Department, they will be transmitted to S.C. Court Administration for review and approval. Once approved by S.C. Court Administration and the schedules are returned to the Department, the schedules will be finalized and returned to the municipality.

### **Records No Longer Created**

Most cities have inactive records that are no longer required to be kept because either the



function to which they relate ceased or was combined with another. An example would be records of the court of equity which became defunct in 1968. These and various other inactive court records are often found in active office areas as well as in basements, attics and closets. Because many of these records have permanent value for research purposes or for documenting the functions and activities of discontinued programs, the S.C. Department of Archives and History should be contacted for advice and recommendations concerning the proper disposition of such materials.

### **Damaged Records**

Through the course of years, records have been damaged or lost due to fires, floods, pipe leakage, insects and natural deterioration. The S.C. Department of Archives and History prefers that all permanent records be housed in a fire- and water-safe room to avoid damage. Approval for the retention or destruction of damaged records must be obtained from the Department of Archives and History. In some cases, it may be possible to salvage permanently valuable information through repair and restoration of the paper documents. In times of emergency, especially those involving fire and water damaged records, contact the S.C. Department of Archives and History should be contacted immediately for advice and assistance.

### **Freedom of Information Act**

(Title 30, S.C. Code of Laws, 1976)

Access to public records is provided for by the South Carolina Freedom of Information Act, Title 30 of the S.C. Code of Laws, 1976.

"Public record" includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. Records such as income tax returns, medical records, hospital medical staff reports, scholastic records, adoption records, records related to registration, and circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, or records which reveal the identity of the library patron checking out or requesting an item from the library or using other library services, except non-identifying administrative and statistical reports of registration and circulation, and other records which by law are required to be closed to the public are not considered to be made open to the public under the provisions of this act; nothing herein authorizes or requires the disclosure of those records where the public body, prior to January 20, 1987, by a favorable vote of three-fourths of the membership, taken after receipt of a written request, concluded that the public interest was best served by not disclosing them.

Nothing herein authorizes or requires the disclosure of records of the Board of Financial Institutions pertaining to applications and surveys for charters and branches of banks and

savings and loan associations or surveys and examinations of the institutions required to be made by law.

### **Fees for Searching for or Making Copies of Records**

S.C. Code Ann § 30-4-30(b) reads, in part: "The public body may establish and collect fees not to exceed the actual cost of searching for or making copies of records ... The records must be furnished at the lowest possible cost to the person requesting the records." You may wish to familiarize yourself with this section in its entirety, and consult with your city administrator to determine if a policy of charges has been established.

### **Numbered Receipts and Arrest Warrants**

By order of the Chief Justice dated May 24, 1983, S.C. Court Administration was directed to promulgate a recordkeeping procedure for magistrates. Pursuant to this Order, S.C. Court Administration developed a system which meets both docketing and bookkeeping requirements. The magistrate is required to keep three disposed dockets (civil, criminal and traffic), in compliance with S.C. Code Ann. § 22-1-80.

The magistrate "shall insert all his proceedings in each case by its title, showing the commencement, progress and termination thereof, as well as all fees charged or received by him. He shall also enter upon his book of criminal cases all warrants issued by him and what disposition he has made of them, what moneys have been collected from fines, costs and otherwise thereunder and what disposition he has made of them."

On March 13, 2007, the Chief Justice signed an order outlining specific financial and recordkeeping standards which must be followed by all magistrate court offices. While the order of the Chief Justice did not specifically include municipal courts and the provisions relating to civil cases are not applicable, the accounting provisions contained therein are sound and would comply with S.C. Code Ann. § 22-1-80, which may be applicable to municipal courts by implication (S.C. Code Ann. § 14-25-45). Regardless of the docket design chosen, all judges should use a system which reflects the defendant's name, charge(s), charging paper number, disposition of case, sentence (a breakdown of court costs is helpful) and bond information.

### **Numbered Arrest Warrants**

Both the white "original" and yellow "duplicate" copies should be delivered to the officer for execution. The pink "audit copy" copy should be retained by the municipal court administration office. In those courts that generate arrest warrants by computer, the generation of an audit copy is optional. The officer should deliver the yellow "duplicate" copy to the defendant at the time of execution and shall remain with the defendant. The officer should retain the white "original" copy to the summary court judge at the bond hearing.

If the offense is beyond the trial jurisdiction of the municipal judge, the white "original" copy of the warrant is transmitted to the clerk of court along with all other pertinent documents (e.g. bonds, checklists, check if cash bond) within 15 days following the arrest of the accused. All such documents should be listed on and accompanied by a certificate of transmittal which is provided by S. C. Court Administration. If a request for a preliminary examination is made, the summary court judge should request the clerk of court provide a certified copy of the arrest warrant and other papers previously transmitted and connected with the case for use at the preliminary hearing.

If the offense charged is within the trial jurisdiction of the summary court, the white "original" copy is filed and retained by the summary court judge indefinitely.

The Office of Attorney General has approved the use of a computer-generated arrest and search warrants. Counties and municipalities which have the capability of using this technology must obtain a block of numbers from the S.C. Court Administration. These numbers are used in sequence on the warrants. When the block is depleted, a new block must be obtained from S.C. Court Administration.

### **Numbered Receipts**

While S.C. Court Administration furnishes numbered receipts for magistrates, municipal judges are not issued receipts by S.C. Court Administration. Municipal judges should use receipts supplied by the municipality, unless the court uses computer software that automatically generates numbered receipts. Regardless, the receipts should be completed immediately upon receiving payments for a bond or fine.

### **Search Warrants**

Every judiciary official authorized to issue search warrants in this state must keep a record along with a copy of the returned search warrant, supporting affidavit and documents for a period of three years from the date of issuance of each warrant. The records shall be on a form prescribed by the Attorney General (S.C. Code Ann. § 17-13-141).

- date and exact time of issuance
- name of person to whom warrant issued
- name of person whose property is to be searched or, if unknown, description of person and address of property to be searched
- reason for issuing warrant
- description of article sought in the search
- date and time of return

Certain courts have been authorized to generate search warrants by computer. These search warrants will be printed on either two (this is preferred) or four individual sheets of paper.

S.C. Court Administration and the Attorney General have approved the use of a computer generated search warrant with one modification. The court must print in the lower right-hand corner of each page the date and time the search warrant is printed. The original search warrant was a one-part form to reduce the possibility of tampering. Therefore, this modification will also help reduce the possibility of tampering. A court must receive prior approval from S.C. Court Administration before using a computer-generated search warrant.

### **National Crime Information Center/Criminal Justice Information Services**

The National Crime Information Center is a computerized nationwide information system established as a service to all local, state and federal criminal justice agencies. The NCIC system helps the criminal justice community perform its duties by providing and maintaining a computerized filing system of accurate and timely documented criminal justice information. Information includes

- wanted person information
- missing person information
- unidentified person information
- stolen property information
- criminal history information
- information compiled in the course of investigating crimes that are known or believed on reasonable grounds to have occurred, including information on identifiable individuals
- information on identifiable individuals compiled in an effort to anticipate, prevent or monitor possible criminal activity

### **NCIC Capabilities in Summary Courts**

Summary court judges should not utilize the NCIC program during the guilt phase of any case but may utilize the NCIC program to assist during the bail proceedings, sentencing phases and similar situations. To determine bail, sentence and other similar situations, access to NCIC is proper and not a violation of the Code of Judicial Conduct (Advisory Committee Opinion 01-2005).

### **NCIC Security**

All records in NCIC are protected from unauthorized access through appropriate administrative, physical and technical safeguards. These safeguards include restricting access to those with a need to know to perform their official duties and using locks, alarm devices, passwords, and/or encrypting data communications. Users of the NCIC system are restricted to only those privileges necessary to perform an authorized task(s).

## **System Usage**

Complete, accurate and timely records are essential to ensure the NCIC System's integrity. Users are encouraged to enter records in a timely manner to afford the maximum protection to law enforcement officers and citizens. Delayed entry of records reduces or eliminates the possibility of apprehending wanted persons, locating missing persons and recovering stolen property. Promptness in modifying, locating or clearing records in the system helps to keep the system free of outdated information.

When an agency receives a positive response from the NCIC system and an offender is being detained or a piece of property can be seized, an immediate confirmation with the agency that originated the record in the system is necessary. This confirmation ensures the validity of the hit before an arrest or seizure is made. The originating agency has the duty to respond promptly with the necessary confirmation and other pertinent details.

NCIC provides information for decisionmaking by investigators, patrol officers, judges, prosecutors and corrections officials. The information furnished by NCIC must be evaluated along with other facts known to the officers, investigators, judges, prosecutors and correction officials.

## **NCIC Contacts and Additional Information**

Contact information as well as system requirements and procedures for access to NCIC are listed on the SC Law Enforcement Division Web site at [sled.sc.gov](http://sled.sc.gov) under the Criminal Justice Information Services tab.

## **Fines and Assessments**

### **Determining Fees and Assessments**

The law is the primary determinate of the overall fine, which includes the combined fees and assessments. Every violation or charge that carries a fine must result from a law. Every year, usually in early June, S.C. Court Administration issues a memo detailing all the provisos and law cites that impact the coming state budget year. This memo is highly informative, extremely focused and lists all information by type of court. It is usually mailed or e-mailed to those who have court contact information listed with the office. To receive this memo, call the Court Administration office at the S.C. Judicial Department at 803.734.1800.

All fees and assessments remitted to the State Treasurer's Office are referenced to a South Carolina Code of Laws section for each fee or assessment on the State Treasurer's Office revenue remittance form.

If an individual is guilty, the judge, in some cases, has the latitude within the law to determine the fine within a range. The judge, in some cases, has the latitude within the law to sentence a person to time served. In a case where time served is the sentence and it is in accordance with the law, there is no fine. When there is no fine, there can be no assessment because the assessment is based on a mathematical computation using the fine amount. If there is no minimum fine set by law, the judge can suspend the fine. If there is a minimum fine amount, the judge cannot suspend or determine a fine below the minimum amount. If there is a maximum fine amount set by law (but no minimum), the judge can suspend the entire fine amount. If the judge suspends the entire fine amount, the court must still collect the assessment.

Many municipalities use software to calculate fees and assessments. However, the use of software does not remove the municipality's responsibility for properly calculating and remitting fees and assessments due the State. Some software requires user updates and intervention on a frequent basis to various tables built into the software to function properly. The vendor supports some software as long as maintenance fees are paid and the program is routinely updated. It is the municipality's responsibility to ensure the proper operation of its court system including the functionality of the software.

### **Municipal Uniform Ordinance Summons**

S.C. Code Ann. § 56-7-80 specifically addresses the municipal uniform ordinance summons. "No county or municipal ordinance which regulates the use of motor vehicles on the public roads of this [s]tate may be enforced using an ordinance summons." A municipality is prohibited by law from enacting a local ordinance regulating the use of motor vehicles on public roads.

## **Fees, Pullouts and Surcharges**

Included in the generic term “fees” are pullouts and surcharges. The public defender and marriage application fees are an example of fees that a municipal court system might encounter that would be reportable to the State Treasurer.

Surcharges and pullouts are specific items legislated to increase the total fine amount and are earmarked in the legislation for a specific purpose. The pullout is actually considered a fine. As such, it would have an additional assessment calculated on it so the assessment amount would increase correspondingly. Normally fines are retained within the jurisdiction that levied them. When the amount owed the State Treasurer’s Office is calculated, the earmarked fine amount is “pulled out” rather than retained by the municipality and sent to the treasurer, hence the term “pullout.” Examples include the Driving Under the Influence and the Driving Under Suspension pullouts.

Surcharges are additional amounts added to the levied fine that do not enter into the assessment calculation. These are essentially added court costs earmarked for a specific purpose. Surcharges must be collected and cannot be waived, reduced or suspended. Examples include conviction, drug and DUI surcharges.

The Attorney General’s Office issued an opinion dated March 17, 1988, “Several prior opinions of this Office have dealt with the issue of court costs. An opinion dated May 8, 1984 stated that in criminal cases ‘. . . the recovery and allowance of costs rests entirely on statutory provisions . . . no right to or liability for costs exists in the absence of statutory authorization.’ See also: Opinion dated April 16, 1979. I am unaware of any State statutory provisions expressly providing for the imposition of court costs at the discretion of an individual magistrate or municipal judge which are beyond those set forth by general statute, such as the costs and assessments noted above.”

Essentially, no municipal court can charge any court cost or fee to any person unless it is specifically authorized by legislation.

## **Assessments**

While the term “assessment” is used to describe an amount added to a fine, it is generally understood in the courts to refer to the percentage used as a factor in multiplying the fine amount to arrive at an amount owed the state for the assessment. This assessment amount is split and shared between the state and victim services.

On July 1, 2008, the assessment percentage was permanently embedded in state law (South Carolina Code of Laws in § 14-1-208) at 107.5 percent. The assessment is based on the portion of the fine that is not suspended. Assessments must not be waived, reduced or suspended. The assessment may not be imposed on convictions for violations of § 56-3-1970, 56-5-2510 and 56-5-2530, or another state law, municipal ordinance or county

ordinance restricting parking in a prohibited zone or in a parking place clearly designated for handicapped persons.

According to S.C. Code Ann. § 56-5-2995, there is currently a DUI assessment of \$12. This assessment is in addition to the percentage assessment discussed above. For municipal courts, it applies only to first offense guilty verdicts in a DUI case.

Additionally, municipal ordinances are subject to assessments.

### **Determination/Calculation**

Based on the State Treasurer's Office revenue remittance form and the S.C. Judicial Department memos for municipal courts, this information is current as of the date of publication. The following will address each item referenced on the State Treasurer's Office revenue remittance form in order and give additional information on determining or calculating the amounts due.

**S.C. Code Ann. § 17-3-30 – Public Defender Application Fee (\$40):** The court must collect this application fee for public defender services from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the clerk of court or other appropriate official for a waiver or reduction in the application fee. If the clerk or other appropriate official determines that the person is unable to pay the application fee, the court must waive or reduce the fee. If the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge upon sentencing. The trial judge must order the remainder of the fee paid during probation if the person is granted probation. The clerk of court or other appropriate official collects the application fee imposed by this section and remits the proceeds to the state fund on a monthly basis.

**S.C. Code Ann. § 44-32-120 – Body Piercing:** The entire fine levied and collected for this offense is remitted to the State Treasurer's Office.

**S.C. Code Ann. § 20-1-375 – Marriage License Fee (\$20):** The court must remit this domestic violence fund added fee to the State Treasurer's Office.

**S.C. Code Ann. § 17-15-260 – Bond Estreatment:** This amount represents 25 percent of the bond that is remitted to the State Treasurer's Office.

**S.C. Code Ann. § 44-53-450(c) – Municipal Conditional Discharge Fee (\$150):** This fee took effect June 2, 2010. The \$150 fee must be paid upon discharge of a case and before discharge can be completed. The court cannot waive, reduce or suspend any portion of the fee except in cases of indigency.

**S.C. Code Ann. § 50-21-114 – Boating Under the Influence:** Although there is no



amount specifically listed on the form, there is a \$50 breath test fee. This fee is reported to the State Treasurer's Office.

**S.C. Code Ann. § 56-1-460 – Municipal DUS DPS Pullout (\$100):** The fine amounts under this law are specific with no ranges. As previously discussed, the pullout is a fine that does not remain with the municipal government but is forwarded or “pulled out” and transmitted to the state. Because it is a fine, the assessment percentage is factored into the total fine, including the pullout portion. The assessment is increased proportionately. Under current law, there is a \$300 fine for a first offense DUS. This would result in a \$322.50 assessment. Of the fine and assessment amounts, the municipal government would retain \$200 of the fine and remit the \$100 pullout and the state assessment percentage to the State Treasurer's Office and the victim service assessment share to the victim service account.

There is an exception to the DUS pullout. S.C. Code Ann. § 12-37-2740, Driving Under Suspension For Failure to Pay Property Taxes, contains “specific penalty provisions for such a violation which are separate and distinct from the penalties provided in § 56-1-460. When handling those cases, reference should be made to that statute for the penalty requirements, and the \$100 pullout does not apply.”<sup>1</sup>

**S.C. Code Ann. § 56-5-2995 – Municipal DUI Assessment (\$12 per case):** As discussed briefly before, this law adds a \$12 DUI assessment to every penalty imposed upon conviction of a DUI. It is collected separately from any fine or percentage assessment.

**S.C. Code Ann. § 14-1-211 – Municipal DUI Surcharge (\$100 per case):** This \$100 surcharge is also known as the MUSC or Medical University of SC surcharge. It is added to all convictions of DUI and DUI Per Se (§ 56-5-2930 and 2933). This is a stand-alone surcharge in addition to any fine or assessment percentage.

**S.C. Code Ann. § 56-5-2940 - Municipal DUI DPS Pullout (\$100):** This is a pullout placed on DUI offenses. DUI offenses are the most complex because they include additional surcharges, pullouts and assessments, more than any other category.

**S.C. Code Ann. § 56-5-2950(e) – DUI/DUAC Breathalyzer Test Conviction Fee (\$25):** This law requires any individual convicted of, pleading guilty or nolo contendere to or forfeiting bond for violating § 56-5-2930 (DUI) or 56-5-2933 (DUAC), and who was administered a breathalyzer examination at the time of arrest must be assessed an additional fee of \$25 at the time of sentencing.

**S.C. Code Ann. § 14-1-213(a) – Municipal Drug Surcharge (\$100 per case):** This law adds a \$100 surcharge to all drug cases tried and found guilty in a municipal court. The law does not provide a definition for a drug case. Nowhere else in South Carolina law defines

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<sup>1</sup> “Statutory Provisions for the Distribution of Revenue Generated by the Circuit Courts, Family Courts, Magistrate and Municipal Courts; Fees and Related Charges of the Register of Deeds” produced by the South Carolina Judicial Department dated June 29, 2007.

drug cases either. Best practices and acumen for the obvious will enable the court to determine to which cases this applies.

**S.C. Code Ann. § 14-1-212(a) – Municipal Law Enforcement Surcharge (\$25 per case):**

This surcharge applies to misdemeanor traffic and nontraffic violations. It is a \$25 surcharge collected and transmitted to the State Treasurer.

**2010-2011 Budget Proviso 90.5 – Criminal Justice Academy Funding Surcharge (\$5**

**per case):** This proviso must be reenacted each year in the state budget. It applies to misdemeanor traffic offenses and nontraffic violations. No portion of the surcharge may be waived, reduced or suspended. It is a \$5 surcharge collected and transmitted to the State Treasurer.

**S.C. Code Ann. § 14-1-208 – Assessment (State Share):**

The total assessment is calculated by multiplying the percentage in the law by the fine amount, including any applicable pullouts. See the pullouts listed above for further explanation. That amount is split between the victim service fund and the State. The ratio for the share is found in the cite above and the law adds an additional 7.5 percent that is earmarked so that the rates cited are modified to 11.16 percent city and 88.84 percent state. The assessment is based on that portion of the fine that is not suspended. Assessments must not be waived, reduced or suspended. The assessment applies to fines imposed in municipal court. The assessment applies to any fine for any violation – city ordinance summons or state violation. If there is \$1 fine paid in a municipal court, there will be \$1.075 of assessment associated with that fine based on current amounts. \$0.955 of that assessment is the State's, and \$0.12 is the victim services portion.

**S.C. Code Ann. § 17-22-350(c) – Municipal Traffic Education Program Application**

**Fee (\$140):** This application fee is listed with the state shared assessment on the State Treasurer's revenue remittance form. The agency administering the program shall retain participation fees to support the traffic education program while the application fee itself is split 90.83 percent for the state and 9.17 percent for the victim services program (§ 14-1-208(d)).

**S.C. Code Ann. § 14-1-211 – Conviction Surcharge:**

The current surcharge is \$25 and is imposed on all convictions in municipal court, except misdemeanor traffic violations. This surcharge is the second of two revenue sources for the victim services fund. It should be segregated and reported as discussed below. Misdemeanor traffic violations are understood in practice to be any violation under Title 56 of the South Carolina Code of Laws. However, the surcharge applies to all violations of § 56-5-2930 (DUI) and § 56-5-2933 (DUAC). No portion of the surcharge may be waived, reduced or suspended. The assessment may not be imposed on convictions for violations of § 56-3-1970, 56-5-2510 and 56-5-2530, or another state law or municipal ordinance restricting parking in a prohibited zone or in a parking place clearly designated for handicapped persons.

One item not listed on the State Treasurer's revenue remittance form is the administrative court costs in fraudulent check cases, § 34-11-70(b) and (c) and 34-11-90(c) and (d). This fee is collected from the prosecuting witness if the court dismisses the case for want of prosecution or from the defendant if the court dismisses the case upon satisfactory proof of restitution. If the case goes to trial and the defendant is convicted, the cost shall be collected even if the sentence is required to be suspended.

Whenever there is a conviction, the court must collect the assessment of 107.5 percent, the conviction surcharge and the law enforcement and Criminal Justice Academy surcharges along with the fine and administrative court cost. If the fine is ultimately suspended, the assessment is computed and collected based on the amount of the fine not suspended.

Additional information about updates for summary court assessments, surcharges and pullouts can be found in memos from the S.C. Judicial Department.

### **Collecting Fines and Remitting Assessments, Surcharges and Pullouts**

Generally, the municipality retains the revenue generated from criminal fines, penalties and forfeitures in municipal court. There are 12 exceptions to this rule. These exceptions are DUI and DUAC, § 56-5-2940; DUS, § 56-1-460; bond estreatments, § 17-15-260; insurance fraud, § 38-55-560; cruelty to animals, § 47-1-160; game or fish law violations, § 50-1-150 and 170; size and weight violations, § 56-5-4160; carriers of household goods and hazardous waste for disposal, § 58-23-590(E); tattooing regulation violations, § 44-34-100(G); seatbelt and parking violations, § 56-5-6540; littering, § 16-11-700; and cases transferred from general sessions court, § 22-3-545.

When a clerk of court turns money over to the municipal treasurer, "every criminal fine and penalty collected by the municipal court is to be forthwith turned over by the municipal court clerk to the Municipal Treasurer for which such court is held. It is recommended that copies of the docket be transmitted with the monies to facilitate accounting of deposits with the treasurer" (S.C. Code Ann. § 14-25-85).<sup>1</sup>

There should be a clear audit trail from the receipt of money through pre-numbered receipts, the amount and ticket number it applies to, and the deposit of that money in the court bank account. One should have the ability at any time to trace a deposit from the bank statement back through the system to the receipt number and date paid and vice versa.

Also, there should be a clear understanding of the charge for which the defendant was convicted. From this information, the proper assessments and surcharges can be verified. The State Auditor's Office has jurisdiction to audit the fines and surcharges for proper collection, apportionment and distribution.

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<sup>1</sup> "Statutory Provisions for the Distribution of Revenue Generated by the Circuit Courts, Family Courts, Magistrate and Municipal Courts; Fees and Related Charges of the Register of Deeds" produced by the South Carolina Judicial Department dated June 29, 2007.

## **Installment Payments**

S.C. Code Ann. § 14-1-209 provides guidance when the fine and assessment are paid in installments. Each installment payment should be allocated on a pro rata basis to each applicable fine, assessment and surcharge. Prior to making these computations, the court should determine which assessments and surcharges may apply based on the following chart. After the court determines which assessments and surcharges apply, then part of the installment payment should be allocated until what remains is the fine and assessment combination.

“When the fine and assessment are paid in installments, Section 35.11 of the Temporary Provisions of the General Appropriations Act suspends S.C. Code Ann. § 14-1-209(B) for the fiscal year ... and requires that 51.80722 percent of each installment be treated as a payment towards the assessment. The remaining 48.192771 percent is treated as a payment towards the fine. The assessment amount must further be divided, with 88.84 being transmitted to the state, and 11.16 being retained by the municipality for victims' services. Prior to making these computations, you must determine what other assessments may apply (conviction surcharge, DUI assessments, etc.). Those charges must be collected separately and not included in the percentage splits explained above. Funds collected as installments should not be held until full payment is received but must be remitted each month to the City Treasurer. To compensate for this slight shift in funds, the division of the final installment payment should be adjusted so that the portion collected as the assessment does not exceed the amount originally imposed.”<sup>1</sup>

When an individual pays the fine, assessment or restitution through installments, the municipal court must collect an additional 3 percent of the installment payment as a collection cost charge. The collection cost is transmitted to the municipal treasurer for deposit into the municipal general fund (S.C. Code Ann. § 14-17-725).

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<sup>1</sup> “Statutory Provisions for the Distribution of Revenue Generated by the Circuit Courts, Family Courts, Magistrate and Municipal Courts; Fees and Related Charges of the Register of Deeds” produced by the South Carolina Judicial Department dated June 29, 2007.

Example: a DUI with payments in installments. In this example the first installment payment will be \$100.

**AMOUNT OF PAYMENT:** \$100.00

**TOTAL FINE PER JUDGE'S CALCULATOR SPREADSHEET:** \$1,022.00

**AMOUNT OF PARTIAL PAYMENT APPLIED TO:**

				<b>FINE:</b>	\$39.14
				<b>ASSESSMENT:</b>	\$42.07
<b>SURCHARGE AMOUNTS THAT APPLY TO CHARGE:</b>				<b>SURCHARGES:</b>	
<u>NAME</u>	<u>APPLIES?</u>	<u>AMOUNT</u>			
DUS PULLOUT	<input type="checkbox"/>	\$100			\$0
DUI ADDITIONAL ASSESSMENT	<input type="checkbox" value="Y"/>	\$12			\$1.17
DUI SURCHARGE	<input type="checkbox" value="Y"/>	\$100			\$9.78
DUI PULLOUT	<input type="checkbox" value="Y"/>	\$100			\$9.78
DRUG SURCHARGE	<input type="checkbox"/>	\$100			\$0
LAW ENFORCEMENT	<input type="checkbox" value="Y"/>	\$25			\$2.45
CJA SURCHARGE	<input type="checkbox" value="Y"/>	\$5			\$0.49
BREATHALYZER TEST -SLED	<input type="checkbox" value="Y"/>	\$25			\$2.45
CONVICTION SURCHARGE	<input type="checkbox" value="Y"/>	\$25			\$2.45
<b>PUT A " Y " IN THE BOX IF IT APPLIES</b>					<b>\$109.78</b>
				<b>PULL OUT AMOUNT TO BE SUBTRACTED FROM FINE:</b>	<b>\$9.78</b>
				<b>TOTAL COLLECTED:</b>	<b>\$100.00</b>

Based on the example above, the city must collect another \$3 as the collection cost charge because there is an installment payment.

The important item to note in the example above is the knowledge needed to correctly determine which items apply – putting the “Y” in the box. All the items, with the exception of the fine and the assessment combined, need to have an amount allocated to them first.

What remains is allocated to the fine and assessment combined then split in accordance with the percentages provided in the law – 51.80723 percent of each installment be treated as a payment towards the assessment. The remaining 48.19277 percent is treated as a payment towards the fine (S.C. Code Ann. § 14-1-209).

## **Remitting**

The clerk of court is the main person involved in each process explained above. Generally, the clerk of court will report to the city treasurer in a time and format to allow the city treasurer to file the revenue remittance form with the State Treasurer's Office. There is a separate requirement for the clerk to be timely as well as the city treasurer. The city treasurer is encouraged to file timely each month whether the clerk is timely or not and/or whether there have been collections for that month or not.

S.C. Code Ann. § 14-1-212 (C) now provides that the State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer's Office. The law authorizes the State Auditor to conduct these examinations, and a local jurisdiction must participate in and cooperate fully with the examination.

Whether a vendor-provided software report is used or a combination manual/automated local system, the clerk of court should have support for every number placed on the State Treasurer's Office revenue remittance form. Installment amounts should be allocated and reported with all other collections as received, not when the total fine is collected.

Each category or line item within the State Treasurer's Office revenue remittance form needs to be accurately reported due to the earmarking of those monies for specific purposes. If you report any assessments, you should, at a minimum, have the law enforcement surcharges to report as well. The city treasurer should document when he received the information from the clerk of court so that responsibility for timely filing can be determined and accountability maintained. It is the city's responsibility to file timely and accurately. City personnel must function as a team to be accountable for the state monies with which they have been entrusted.

## **Filing and Reporting to the State Treasurer's Office**

City personnel should remit the amounts collected to the State Treasurer's Office by the 15<sup>th</sup> of the month following the collection. The latest State Treasurer's Office revenue remittance form is available at the State Treasurer's Office Web site ([treasurer.sc.gov/forms/](http://treasurer.sc.gov/forms/)).

The State Treasurer's Office offers two options for filing the revenue remittance form ([treasurer.sc.gov/divisions/courtfines/](http://treasurer.sc.gov/divisions/courtfines/)).

The first option is an editable PDF document to enter data on the State Treasurer's revenue

remittance form. The user can save and/or print the form with the entered data.

The other option is located under “Court Fines Online” and is an interactive online revenue remittance form with options for limited edits and online filing. Users can retrieve data and previously filed forms in this area.

### **Separation of Monies and Accounts**

Whoever is responsible for accounting at the municipal level is responsible for the separation of monies and accounts. First, segregate the court funds from all other city funds. These funds should represent any bond funds deposited and posted before trial and in escrow until the defendant is adjudicated. The clerk of court does not report these collections to the State Treasurer for remittance.

Once the defendant is found guilty or innocent, a determination is made as to the status of those funds. If innocent, the clerk of court should authorize a refund to the defendant based on the judge’s ruling. If guilty, those funds are forwarded to the city for disbursement in accordance with the law. A list of bonds pending should be maintained and reconciled monthly with the clerk of court or court bank account. At no time should the city “borrow” or otherwise access those monies. This is considered a crime by the S.C. Judicial Department.

Reports should be run routinely, usually at month end, to allocate collections on guilty defendants amongst the fines, assessments, surcharges and pullouts. This report should accompany any movement of funds from the clerk of court or court bank account. At the very least, a check should be generated to move all monies properly adjudicated out of the account. Accounting records on the city treasurer’s side should reflect the simultaneous transactions.

The state auditor recommends that all monies associated with victim services revenue sources be kept in a separate general ledger fund. A special revenue fund type would fit this recommendation. It is not necessary to keep these monies in a separate bank account. Pooling the cash could provide benefits of a higher investment return or lower bank fees. As previously noted, each revenue source, the conviction surcharge, application fee and the victim service share of the assessment should be tracked separately.

Accounting records should reflect the receipt of the check(s) generated by the clerk of court. The amounts due the state may be credited to a generic “Due to the State” ledger liability account. Victim service revenues should be credited to the various revenue accounts in the victim service fund, and the revenue due the city from the fines can be credited to a generic “bonds and fines” revenue account in the general ledger. The debit is to the cash account(s).

The State Treasurer’s draft or a check written by the city to remit the amount due to the

state is accounted for by a debit to the “liability due to the state” and a credit to cash.

The ultimate goal of the accounting system is to readily provide information to produce the required Schedule of Fines and Assessments. Required information for this schedule is found in S.C. Code Ann. § 14-1-208(E). This is a required supplementary schedule and must have an external auditor’s “in relation to” opinion on it. The required information includes

- a. all fines collected by the clerk of court for the municipal court,
- b. all assessments collected by the clerk of court for the municipal court,
- c. the amount of fines retained by the municipal treasurer,
- d. the amount of assessments retained by the municipal treasurer,
- e. the amount of fines and assessments remitted to the State Treasurer pursuant to this section, and
- f. the total funds, by source, allocated to victim services activities, how those funds were expended and any balances carried forward.



## Court Facilities and Court Security

### Court Facilities and Accessibility

Each "county shall provide sufficient facilities...for the necessary and proper operation of the magistrate courts in that county" (S.C. Code Ann. § 22-8-30). Likewise, any "municipality establishing a municipal court...shall provide facilities for the use of judicial officers in conducting trials and hearings..." (S.C. Code Ann. § 14-25-5). These two Code sections mandate that South Carolina counties and municipalities provide sufficient facilities and personnel to operate the courts.

Also counties and municipalities must make sure their courts are accessible to all individuals, including those with a disability to be in compliance with the Americans with Disabilities Act. The ADA went into effect on January 26, 1992. Title II of the ADA applies to all activities of state and local governments, including the operation of the court system. Title II also provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity or be subjected to discrimination by any such entity.

The ADA also states a public entity shall operate each service, program or activity so that the service, program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. The law does not

- a. necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities,
- b. require a public entity to take any action that would threaten or destroy the historical significance of a historical property, or
- c. require a public entity to take any action that would result in a fundamental alteration in the nature of a service, program, or activity or in an undue financial and administrative burden.

Any court facility built or renovated since the ADA effective date must comply with the Act. If the court was built or renovated prior to that date, the court must make reasonable accommodations to enable individuals with disabilities to use its facilities. If the courtroom is on the second floor of a building with no elevator and a participant is disabled, court must be held in an accessible room.

The ADA applies to many different disabilities. For individuals with a hearing impairment, the S.C. Supreme Court has provisions for the payment of sign language interpreters. See [sccourts.org/whatsnew/deafinterpreters.htm](http://sccourts.org/whatsnew/deafinterpreters.htm), Order Re: Appointment Of Qualified Court Interpreters For Deaf Persons And Payment For Their Services (May 20, 2004). Courts should have access to a TTY or other methods of communication to enable individuals who

are deaf to call the court.

Court personnel should be trained to be sensitive to the possibility that individuals may have cognitive limitations that affect their ability to understand and comply with instructions. They should be willing to take the time to explain information or assist in filling out forms if necessary to enable an individual to use the court.

## **Court Security**

At one time, court security was a matter of concern only during high-risk or controversial trials. In recent years, court security has become a daily concern to everyone who works in or around the court in most jurisdictions around the country. Security incidents are not only sensational headline-seeking events and disasters, but they can be daily occurrences which could disrupt court activity, such as medical emergencies, fires and minor disturbances in the hallways.

Court security can be defined as the procedures, technology and architectural features needed to ensure both the safety of people and property within the courthouse and nearby grounds and the integrity of the judicial process. Security is needed on a daily basis not just during special trials. However, it must not be so visible as to become repressive.

## **Courtroom Safety and Security Planning**

The National Center for State Courts released a 10-point blueprint in 2005 for improving courthouse security and provided a framework for the full development of court security strategies. These “Ten Essential Elements for Effective Courtroom Safety and Security Planning” are outlined below with additional commentary related to municipal courts.

### **1. Operational Security**

Develop a security plan or procedures for standard operations. This plan should include the following considerations.

- general policies and procedures
- security team
- security screening
- restricted access
- court security officers
- weapons policies
- prisoner transport
- duress alarms
- camera surveillance
- after-hours security

All court personnel should be aware of and be adept in courthouse security, emergency and contingency plans. In addition to court security officers, clerks of court and other court staff should receive training in emergency procedures.

Additional policies should be developed to address

- security of funds
- response to robbery and burglary
- records security and access to files
- personal security procedures for self defense and risk avoidance, such as working after hours
- dealing with hostile individuals
- procedures for bomb threats
- basic rules for hostage situations

## **2. Facility Security Planning: The Self-Audit Survey of Court Facilities**

Conduct an audit of court facilities to determine potential threats and security concerns. This audit emphasizes the need to know the strengths and weaknesses of the courtroom to best protect the people inside. Areas to address during the audit include

- structural design
- traditional level of risk
- public access and control
- employee access
- alarms
- blast protection
- technical equipment/staffing
- signage
- training plans and inspections

## **3. Emergency Preparedness and Response: Continuity of Operations**

At any moment, courts can be affected by natural or unnatural disasters; however, they must continue to operate and serve the public in such an event. There needs to be a greater awareness and identification of command structure, protocols and communication routes for such emergencies and responses.

Municipal courts should develop a security team that is skilled in emergency response protocol. This team should identify the commanding official in the event of an emergency as well as the second in command.

Emergency communication practices should be determined for both inside and outside of court facilities. Additionally, emergency evacuation procedures for fire and bomb threats should be established, and the procedure for notification of law enforcement should be determined and practiced by all court personnel.

Finally, points of contact for the municipal court must be identified in the event of an emergency to handle reactions from staff, citizens, other agencies and the media.

#### **4. Disaster Recovery: Essential Elements of a Plan**

Municipal courts must ensure that adequate procedures are in place to recover lost or vulnerable information in the event of an emergency.

Court personnel must have an established plan to handle absences of judges and other court staff as well as the strategy for dealing with the caseload, including scheduling and continuances.

#### **5. Threat Assessment**

Municipal courts should identify serious threats of violence to prepare for proper protective action. Judicial proceedings are adversarial by nature, and municipal courts are subject to situational violence more than other potential threats. Court personnel should be instructed on signs of potential disturbances and be trained to handle hostile situations so they do not escalate.

#### **6. Incident Reporting**

Municipal courts must develop an appropriate incident report form that allows for capturing data on items, such as intelligence and funding needs. A sample Security Incident Reporting Log is included in the Appendix.

Each court must determine which incidents should be recorded (e.g. any threats or events with potential to cause personal injury or property loss). This data can be used to measure the court's level of security, reduce incidents, make improvements and serve as support for funding requests.

#### **7. Funding**

Equipment can be bought and personnel can be trained at moderate cost. Presently, each municipal court must secure funding from its own sources to obtain equipment and training for security purposes.

#### **8. Security Equipment and Costs**

Municipal courts must have updated and readily available information on what technology is available to them and how much it costs. Each court must determine the optimal security level for the facility and safety improvements that must be made to the court.

#### **9. Resources and Partnerships**

Strong and effective partnerships among municipal courts, law enforcement and city councils must be developed to ensure successful security operations.

## **10. New Courthouse Design**

As new courthouses are being constructed, up-to-date physical safety measures should be included at the design stage. Court personnel, specifically clerks of court, should have a seat at the table when meetings are held to discuss plans for design and development of court facilities.

### **Court Security Procedures**

The United States Marshals Service has developed policies, procedures and risk levels to assist members of the federal judiciary in providing security to judicial facilities. The information can be adapted to municipal court functions to provide for the safe and efficient operation of the municipal judicial process. Additional information can be found in the Appendix.

## Victims Assistance and Other Court Programs

### Victims Assistance and Advocacy

In recent years, the legislature has heard the pleas of victims and enacted laws to protect victims' rights. In Section 16-3-1510(1) of the S.C. Code of Laws, a victim is defined as "any individual who suffers direct or threatened physical, psychological or financial harm as the result of the commission or attempted commission of a criminal offense." The definition of "victim" also includes a spouse, parent, child or the lawful representative of a victim who is deceased, a minor, incompetent, or a physically or psychologically incapacitated person.

However, a "victim" does not include any individual who is the subject of an investigation, is charged with, has been convicted of or pled guilty or nolo contendere to the offense in question. "Victim" does not include any individual, including a spouse, parent, child or lawful representative, who is acting on behalf of the suspect, juvenile offender or defendant unless his actions are required by law. "Victim" also does not include any individual who was imprisoned or engaged in an illegal act at the time of the offense.

Under the Victims of Crime Act and the Victims' Bill of Rights, the government entity responsible for protecting rights varies depending upon the procedural stage of the case. Regardless of the stage, the Act specifically provides that the rights and services extended to crime victims are to be "honored and protected by law enforcement agencies, prosecutors and judges in a manner no less vigorously than the protections afforded criminal defendants."

#### The Victims' and Witnesses' Bill of Rights

1. Victims and witnesses have a right to be treated with dignity and compassion.
2. Victims and witnesses have a right to protection from intimidation and harm.
3. Victims and witnesses have a right to be informed concerning the criminal justice process.
4. Victims and witnesses have a right to reparations.
5. Victims and witnesses have a right to the preservation of property and employment.
6. Victims and witnesses have a right to due process in criminal court proceedings.
7. Victims and witnesses who are very young, elderly, handicapped or have special needs, have a right to special recognition and attention by all criminal justice, medical and social service agencies.

### Training Requirement

According to the Attorney General Opinion dated October 9, 2009, municipal court staff are considered victim service providers, since staff carry out statutorily required duties associated with victims, including notification of hearings. Those individuals identified as "notifiers/support staff" must complete an annual two-hour training requirement through

the Office of Victim Services Education and Certification during each calendar year to comply with §16-3-1400, 16-3-1620 (C and D) and 16-3-1680.

### **Summary Court's Duty to Notify Victim of Victim's Rights**

In accordance with S.C. Code Ann. § 16-3-1535, the summary court has a duty to notify a victim of his rights.

The summary court, upon retaining jurisdiction of an offense involving one or more victims, reasonably must attempt to notify each victim of his right to

be present and participate in all hearings,  
be represented by counsel,  
pursue civil remedies, and  
submit an oral or written victim impact statement, or both, for consideration by the summary court judge at the disposition proceedings.

The summary court must provide to each victim who wishes to make a written victim impact statement a form that solicits pertinent information regarding the offense, including

the victim's personal information and supplementary contact information;  
an itemized list of the victim's economic loss and recovery from any insurance policy or any other source;  
details of physical or psychological injuries, or both, including their seriousness and permanence;  
identification of psychological services requested or obtained by the victim;  
a description of any changes in the victim's personal welfare or family relationships; and  
any other information the victim believes to be important and pertinent.

The summary court judge must inform a victim of the applicable procedures and practices of the court.

The summary court judge reasonably must attempt to notify each victim related to the case of each hearing, trial or other proceeding.

A law enforcement agency and the summary court must return to a victim any personal property recovered or taken as evidence as expeditiously as possible, substituting photographs of the property and itemized lists of the property including serial numbers and unique identifying characteristics for use as evidence when possible.

The summary court judge must recognize and protect the rights of victims and witnesses as diligently as those of the defendant.

In cases in which a summary court judge sentences a defendant to more than 90 days, the summary court judge must forward, within 15 days, a copy of each victim's impact statement or the name, mailing address and telephone number of each victim, or both, to the Department of Corrections, the Department of Probation, Parole, and Pardon Services or the Board of Juvenile Parole, the Department of Juvenile Justice, and a diversion program.

This information must remain confidential and shall not be disclosed directly or indirectly, except by order of a court of competent jurisdiction or as necessary to provide notifications or services, or both between these agencies, these agencies and the prosecuting agency, or these agencies and the Attorney General.

### **Forms Victims Should Be Provided by Summary Court**

The following three forms should be provided to all victims of criminal offenses as defined in Section 16-3-1510(3). These forms can be found in the Appendix.

1. Victim Notification Form - SCCA/560
2. Victim Impact Statement - SCCA/561
3. Victim's Rights Information Sheet - SCCA/562

### **Restitution**

Restitution is money the offender pays to a victim for losses a victim suffered as a result of the offender's crime or delinquent act. Restitution includes, but is not limited to, recovery for medical expenses, psychological counseling, specific damages and economic loss, funeral expenses, transportation costs related to a victim's participation in the criminal justice process, vehicle impoundment fees and child care costs.

Law enforcement personnel must provide a victim with written notice of the victim's constitutional rights, including the right to restitution. Also this notice must describe the victim's responsibilities for exercising the right to restitution. Similarly, a Solicitor must inform a victim about collecting restitution. Once jurisdiction is retained, the court must provide a victim with a written victim impact statement form that solicits information regarding the victim's economic losses and recovery for those losses.

To be entitled to restitution, a victim must provide his contact information, including legal name, mailing address and current telephone number to the law enforcement agency or court. Also a victim must also provide the Solicitor or judge an itemized list that includes the following information.

- a. values of property stolen, damaged or destroyed
- b. property recovered
- c. medical expenses, counseling expenses or both
- d. income lost as a result of the offense
- e. out-of-pocket expenses incurred as a result of the offense



- f. any other financial losses that may have been incurred
- g. an itemization of financial recovery from insurance, the offense, victim's compensation fund or other sources

This information must be provided in the time limits set by the Solicitor or court. The information may be included in a written victim impact statement. Also the victim may be required to provide documentation for these losses.

### **Setting Restitution and Payment**

When an offender has been convicted and has not agreed to the amount of the restitution due, the court shall order that the defendant make restitution. The court must set restitution in an amount that will fully compensate the victim for pecuniary damages up to \$5,000. In setting the amount or method of payment, the court may consider the following.

- a. the financial resource of the defendant and the victim and the burden that the manner or method of restitution will impose upon the victim or the defendant
- b. the ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court
- c. the anticipated rehabilitative effect on the defendant regarding the manner of restitution or the method of payment
- d. any burden or hardship upon the victim as a direct or indirect result of the defendant's criminal acts
- e. the mental, physical and financial well-being of the victim.

The court must hold a hearing to determine the appropriate amount of restitution. The victim has the right to be present and be heard at this hearing or any other restitution proceeding.

Following the restitution hearing, the court must enter an order stating its findings and the underlying facts and circumstances of them. The court's order shall specify a monthly payment schedule that will result in full payment for restitution by the end of the 80 percent of the offender's supervision period in accordance with S.C. Code Ann. § 22-3-550(A).

An offender may be ordered to pay restitution even in the absence of a criminal prosecution. If an offender enters an intervention program, the Solicitor determines the appropriate amount of restitution to which the victim is entitled.

## Collection of Fees

The clerk of court is authorized to collect any court-ordered restitution. The clerk also has the authority to establish a payment schedule for restitution to the extent necessary to collect it. If the clerk collects an order of restitution, the proceeds are distributed *pro rata* to the victims who were entitled to receive the original amount.

## SC Victim's Compensation Fund

A victim of a crime who has suffered some loss as the result of a crime may be eligible for compensation from the SC Victim's Compensation Fund. The fund may provide benefits when someone has medical expenses, loss of earnings, counseling expenses, or (in the case of death) funeral expenses, if those expenses are not covered by other sources. To qualify for compensation, one must report the crime to the police within 48 hours of its occurrence (if possible), cooperate with law enforcement and the Governor's Office Division of Victim Assistance and complete a Crime Victim's Compensation application. The victim can contact his law enforcement or Solicitor's office. A victim assistance advocate will help the victim with the Crime Victim's Compensation application.

Even if the victim completes the application, the loss must exceed \$100 to receive compensation funds. The maximum allowable compensation for funeral expenses is \$4,000, while the maximum for any one claim increases to \$15,000. In extreme cases with special approval, the maximum allowable compensation is \$25,000.

## Victims Assistance Revenue

A person convicted of, or pleads guilty or "nolo contendere" to, or forfeits bond for an offense tried in municipal court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer. The assessment is based upon that portion of the fine that is not suspended. **Assessments must not be waived, reduced or suspended.**

A \$25 surcharge is imposed on all criminal convictions in addition to all other assessments and surcharges, including municipal ordinances obtained in magistrate and municipal courts (S.C. Code Ann. § 14-1-211). The surcharge must not be imposed on convictions for misdemeanor traffic offenses. However, the surcharge applies to all violations of Section 56-5-2930 (driving under the influence of liquor, drugs or like substances) and Section 56-5-2933 (DUI Per Se). **No portion of the surcharge may be waived, reduced or suspended.**

The city treasurer must remit 12 percent of the revenue generated by the assessment imposed to the municipality to be used for the purposes set forth in § 14-1-208(D) and remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the

fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer (S.C. Code Ann. § 14-1-208 (4)). However, the amount of the assessment revenue required to be paid to the state pursuant to a “hold-harmless” clause may not exceed the amount collected for the month. Assessments paid in installments are remitted as received.

The surcharge revenue retained by the municipality must be reported to the State Treasurer monthly in a form and manner required by that office. To ensure surcharges imposed pursuant to § 14-1-211 (A) are properly collected and remitted to the city treasurer, the annual independent external audit required to be performed by each municipality pursuant to § 5-7-240 must include a review of the accounting controls over the collection, reporting and distribution of surcharges from the point of collection to the point of distribution. It must have a supplementary schedule detailing the amount of the surcharges collected at the court level, the amount retained by the municipality’s treasurer, the amount of funds allocated to victim services by fund source, how those funds were expended and carry forward balances. The municipality is allowed to use \$1,000 of the funds to offset the audit’s cost.

The municipality must use the revenue it retained to provide services for the victims of crime, including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors and the summary courts. First priority is given to those victims' assistance programs which are required by Article 15 of Title 16 and second priority is given to programs which expand victims' services beyond those required by Article 15 of Title 16. These funds may be used for, but are not limited to, salaries, equipment that includes computer equipment and Internet access, or other expenditures necessary for providing services to crime victims. All unused funds must be separately identified in the municipality’s adopted budget as funds unused and must be carried forward from year-to-year and used exclusively for providing services for crime victims.

### **Expenditures of Crime Victim Services**

The South Carolina Victims Assistance Network recommends certain guidelines for the expenditures of crime victim services in municipalities. The following is a list of guidelines pursuant to § 14-1-208 and 14-1-211 exclusively for the purpose of providing victim services.

Article 15 of Title 16 mandates first priority expenses directly related to crime victim programs and services within law enforcement, local detention facilities, prosecutors and the summary courts.

1. Personnel (salaries/benefits) for performing direct services to crime victims (victim advocates within law enforcement and Solicitor offices, notifiers for detention centers and summary courts).

2. Automobiles, travel expenses and/or per diem for personnel providing direct victim services.
3. Computers, computer software, Internet connection, Web site for personnel providing direct crime victim services. There is a one time \$10,000 allowable expense to the summary courts for computer expenses.
4. Training and conference registration, and hotel accommodations for personnel providing direct crime victim services.
5. Office space, furniture, equipment (telephone, telephone lines, 800 numbers, fax, copier) and equipment maintenance for personnel providing direct crime victim services.
6. Postage relating to notification services and correspondence.
7. Brochures to crime victims describing the entity's crime victim services and contact information.
8. Conference space or meeting arrangements directly related to providing crime victim services.
9. Public service announcements directly related to crime victim services.
10. Pagers, cell phone expenses for personnel providing direct crime victim services.
11. Telephone charges directly related to crime victim services.
12. Volunteer personnel and training expenses directly providing services to crime victims.
13. Printing costs for programs and direct correspondence.
14. Office supplies for personnel directly involved in providing services for crime victims.
15. Reference materials.
16. For certified officers funded and serving as victim advocates, funding for uniforms, weapons, body armor, radio, credential badge, etc.

The following is a list of second priority expenses which expand victims services beyond those required by Article 15 of Title 16.

1. Camera, film, video tape, VCR recording equipment to support evidence documentation for domestic violence and sexual assault case and viewing of education materials for victims.
2. Recording or translation services directly related to crime victim services.
3. Funding for women and children shelters/treatment centers for crime within the county or municipality.
4. Funding for rape crisis centers.
5. Funding for other local organizations providing direct services for crime victims (mental health, etc).
6. Pawn shop investigators, sex offender registry investigators, criminal domestic violence (CDV) investigators and crime prevention programs directly providing services for crime victims within local law enforcement agencies.
7. Matching funds for grant programs providing direct services to crime victims (CDV grants, dedicated court grants for CDV, etc.).
8. Emergency funding to be paid to service providers for crime victims: day care for children of crime victims required to be in court; limited rent; utilities for transitional housing for CDV victims; limited groceries; transportation; etc.).
9. Funding for child-friendly interview rooms, separate waiting rooms for crime victims.
10. Training for other personnel within local entities concerning crime victim issues.

### **Pretrial Intervention Program**

Pretrial intervention programs work closely with the courts and law enforcement to establish a program that works for the good of all parties involved. It can provide an offender the opportunity to clear his record, avoid a possible jail sentence and help the offender take steps to improve his life.

If an individual has been arrested for the first time for a nonviolent crime, he may come to PTI directly through a referral from the magistrate, municipal or General Sessions Court.

PTI is a diversionary program designed for first-time offenders of nonviolent crimes, and pursuant to S.C. Code Ann § 17-22-10, is established solely by the Solicitor's office. The program allows the defendant to be diverted from court and enter into a program consisting of counseling and guidance, community service work and restitution. Successful completion

of the program requirements will allow the defendant's arrest record to be expunged. The goal is to give first-time offenders a second chance. **Offenders may participate in this program only one time.**

Prior to any person being admitted to a pretrial intervention program, the victim (if any) of the crime for which the applicant is charged and the law enforcement agency employing the arresting officer shall be asked to comment in writing as to whether or not the applicant should be allowed to enter an intervention program. In each case involving admission to an intervention program, the Solicitor or judge (if application is made to the court pursuant to § 17-22-100) shall consider the recommendation of the law enforcement agency and the victim (if any) in making a decision.

When a victim is involved in the charge, a consent form will be sent to him to be signed and returned to PTI. Also a recommendation request will be issued to the arresting officer. These forms must be received recommending PTI participation. A negative recommendation may result in the offender's inability to participate in the program. The Solicitor has the final decision to accept or reject the case for diversion.

Certain persons are not eligible for consideration for PTI. "A person may not be considered for intervention if he has previously been accepted into an intervention program nor may intervention be considered for those individuals charged with blackmail, driving under the influence of intoxicating liquor or drugs, any traffic-related offense which is punishable only by fine or loss of points, or any fish, game, wildlife, or commercial fishery-related offense which is punishable by a loss of eighteen points as provided in § 50-9-1120, any crime of violence as defined in § 16-1-60, or an offense contained in Chapter 25 of Title 16 (Criminal Domestic Violence offenses) if the offender has been convicted previously of a violation of that chapter or a similar offense in another jurisdiction" (S.C. Code Ann. § 17-22-50).

A person charged with a first offense of possession of marijuana or hashish under § 44-53-370(d) (3) may be permitted to enter PTI if they meet the standards of eligibility for the intervention program.

Standards of eligibility for a pretrial intervention program are set out in § 17-22-60.

Intervention is appropriate only when

- a. the offender is at least 17 years old (or 16 years old and charged as an adult)
- b. the offender is employed in some capacity, disabled or in school
- c. there is substantial likelihood that justice will be served if the offender is placed in an intervention program
- d. it is determined that the needs of the offender and the state can better be met outside the traditional criminal justice process
- e. it is apparent that the offender poses no threat to the community
- f. it appears that the offender is unlikely to be involved in further criminal activity

- g. the offender, in those cases where it is required, is likely to respond quickly to rehabilitative treatment
- h. the offender has no significant history of prior delinquency or criminal activity
- i. the offender has not previously been accepted in a PTI program.

Before an individual can be accepted in the PTI, they must

- a. furnish the program with complete information regarding the pending charge(s), prior history and current activities
- b. agree to make restitution for any losses to the victim in the case
- c. pay \$100 non-refundable application fee for the orientation session
- d. agree to commit no more crimes
- e. have no prior participation in a PTI program.

After a referral has been made, the offender must apply to the program within 10 days of his court appearance. The offender must bring the following.

- a. \$100 money order or certified check for the application fee
- b. picture identification
- c. social Security card

At the first meeting, an overview of PTI various program requirements will be presented. A PTI representative will review information on any matter regarding the pending charge against the offender and any prior history of criminal activity. Approximately 30 days from the original orientation/application date, the offender will be scheduled to appear for a second appearance to obtain individual requirements for the program. Failure to appear at the second appointment will result in the case being returned to the court.

If the offender enrolls and is accepted into PTI, the Solicitor will agree to hold the charges against him from going forward. This will occur only if the offender is in the program and completing the requirements. Before the charges can be dismissed, the offender must complete the following requirements.

- a. Pay the \$250 non-refundable participation fee.
- b. If required, submit to random drug screening.
- c. Be employed full-time or enrolled in school full-time.
- d. Actively take part in the program as set forth by the case manager. This may include client finance counseling at outside agencies or other education services.
- e. Attend a prison tour when scheduled by the PTI staff.
- f. Remain in the program a minimum of 90 days to a maximum of one year.
- g. Pay the victim of the crime for losses incurred.
- h. Have no new arrests while enrolled in PTI.
- i. Remain in the state while the charges are pending, unless approved by PTI program.

If the offender completes the program requirements as assigned, the Solicitor's office effects a non-criminal disposition of the charge, usually a “nolle prosequi,” and the offender is eligible under § 17-22-150 to clear his arrest record of the dismissed charge(s). The offender will be given detailed instructions regarding expungement of his record. Should the offender choose not to complete the requirements of the program, the case is returned to the appropriate court for full and swift prosecution.

### **Alcohol Education Program**

The Alcohol Education Program is a state legislated diversionary program overseen by Pretrial Intervention by the Solicitor’s office. AEP is designed for first-time offenders of magistrate/municipal court alcohol offenses. This system allows the defendant to be diverted from court and enter into a program consisting of counseling and guidance. Successful completion of the program requirements will allow the defendant to process an Order for Destruction of the arrest record on the charge. The goal is to give first-time offenders an educational opportunity to change illegal behavior. Offenders may participate in this program only one time. However, participants of this program are still eligible for the Pretrial Intervention Program.

An offender who has been arrested for the first time for a magistrate/municipal alcohol offense may be eligible to enroll in AEP directly through a referral from the magistrate or municipal court.

AEP for an individual is appropriate when

- a. A person is 17 years old or older (16 and under, in special cases) and no older than 20 years of age.
- b. There is no evidence of prior arrests.
- c. The person is employed in some capacity, disabled or in school.
- d. The person is likely to respond quickly to rehabilitative treatment.
- e. Justice to the offender and the state will be served by placing the offender in a diversion program instead of the traditional criminal justice process.
- f. The offender is unlikely to be involved in further criminal activity.
- g. The individual poses no detectable threat to society.

In addition, the following criminal offenses are eligible for AEP.

- a. minor in possession of beer or wine
- b. minor in possession of alcohol or liquor
- c. open container
- d. public disorderly conduct
- e. littering
- f. possession of false identification
- g. other offenses similar in nature and severity at the Solicitor’s discretion



After a referral has been made to AEP, the offender must apply to the program within 10 days of the original court appearance. At application the offender must bring the following.

- a. \$150 money order or certified check
- b. picture identification
- c. social Security card

After the offender has submitted the application, he will be issued a return date to receive the requirements. This will usually take approximately 14 days.

When an offender enrolls and is accepted into AEP, the Solicitor will agree to hold the charges against the offender from going to trial. As long as the offender stays in the program and is living up to the agreement, the case will not be returned to the court. Before the charges can be dismissed, the offender must have completed the following requirements.

- a. Complete assigned education and pay the \$100 participation fee.
- b. Submit to random drug screening without positive results.
- c. Complete assigned driving program.
- d. Complete community service as assigned.
- e. Commit no new criminal violations while enrolled in AEP.

If the offender fails to live up to his agreement with the AEP or if the Solicitor discovers that the individual has been charged with another offense, the offender will be returned to court for full and swift prosecution.

If the offender completes the AEP requirements, the court that handled the case is notified and the charges against the offender are dismissed. At that time, the offender is eligible under § 17-22-530 to clear his arrest record of the dismissed charges.

## **Defense of Indigents**

The Defense of Indigents Act was enacted in South Carolina in 1969 to improve and expand defender services and the delivery of legal representation to indigent defendants charged with criminal offenses. This Act was amended in 1972 and again in 2007.

Under the Defense of Indigents Act, every person arrested for the commission of a crime within the jurisdiction of the court of General Sessions, every juvenile to be brought before any court on any charge for which he may be imprisoned, and every person charged with the violation of a probationary sentence shall be taken as soon as practical before the clerk of the court of General Sessions or such other officer(s) as may be designated by the resident judge of the circuit, for the purpose of securing the right to counsel for the accused.

In cases involving criminal charges within the jurisdiction of magistrate courts, municipal courts or other courts with like jurisdiction and if a prison sentence is likely to be imposed following any conviction, the presiding judge of the court in which the matter is to be determined shall inform the accused when the case is called for disposition.

The officer before whom the arrested person is taken shall

- inform the accused of the charges against him and the nature of the charges,
- advise the accused of his right to counsel and his right to the appointment of counsel by the court, if the accused is financially unable to employ counsel, and
- if the accused represents that he is financially unable to employ counsel, take his application for the appointment of counsel or for the services of the public defender where the latter is available in the county.

### **Determination of Indigency**

Upon examination of a completed Affidavit of Indigency, the officer designated to make a determination of indigency shall determine if the accused is indigent. If that officer is unable to make this determination, the final determination whether the accused is indigent shall be made by a judge of the court in which the matter is to be heard.

For purposes of this rule, a person is indigent if that person is financially unable to employ counsel. In making a determination whether a person is indigent, all factors concerning the person's financial condition should be considered including income, debts, assets and family situation. A presumption that the person is indigent shall be created if the person's net family income is less than or equal to the poverty guidelines established and revised annually by the U.S. Department of Health and Human Services and published in the Federal Register. Net income shall mean gross income minus deductions required by law.

## **Appointment of Counsel**

If application for counsel is approved for the accused, the clerk of court or other officer shall immediately notify the office of public defender. The public defender shall immediately thereafter enter upon the representation of the accused. If there is no public defender, the clerk of court or other officer shall immediately notify the court, or such person as the resident judge may designate, of the request for counsel. The appointment of counsel shall be made immediately with prompt notification thereof to the accused and counsel so appointed.

The initial designation of the public defender of appointment of counsel to represent an accused shall be subject to review by the court if it subsequently appears that the accused is in fact financially able to employ counsel, has obtained counsel of his own, or for other good cause shown.

If counsel shall have been retained and partially paid for his services in either the trial or appeal stages, no reimbursement may be had from indigent funds. Upon the completion of the trial stage, the defendant may be brought before the designated officer for the purpose of a redetermination of indigency. Upon a finding of indigency and appointment of counsel, the fees and costs of representation may be paid from indigent funds as prescribed in these rules.

The appointment of private counsel pursuant to Section V of the Act shall be made or confirmed in a written order, showing the date and time of the appointment. The order shall be filed with the clerk of court, with copies provided to the accused and to the appointed counsel. Where representation is by a public defender, he shall file with the clerk of court a written certificate setting forth the date and time at which he undertook such representation. He shall keep and report the hours in court and out of court and extraordinary expenses incurred applicable to each case for which representation is made.

Trial counsel, whether retained, appointed or public defender, shall continue representation of an accused until final judgment, including any proceeding on direct appeal, with limited exceptions.

During the trial stage, trial counsel may be relieved only for good cause upon written petition to and by written order of the trial judge. In all cases where relief from representation is sought by trial counsel, a copy of the petition shall be served on the accused and the prosecuting attorney. The public defender also shall be served when relief is sought by retained or appointed counsel. If trial counsel is relieved for good cause, the trial court shall immediately appoint substitute counsel.

## **Appellate Defense**

After conviction of an accused who has been represented by appointed counsel or public

defender, the Office of Indigent Defense, Division of Appellate Defense, shall represent the accused until final judgment. After serving and filing a Notice of Appeal, appointed counsel and public defenders shall be automatically relieved as appellate counsel for the accused, without obtaining leave to withdraw. However, the public defender or appointed counsel shall assist in representing the accused in any manner necessary to properly prepare the appeal or as otherwise requested by the Division of Appellate Defense.

When an accused who desires to appeal claims to be indigent at the conclusion of the trial, his retained counsel must first serve and file a Notice of Appeal. The accused shall then request a determination of his indigency status from the Office of Appellate Defense. If the Division of Appellate Defense determines that the accused is not indigent, retained counsel shall continue representation of the accused during the appeal, unless granted leave to withdraw.

If the Office of Indigent Defense, Division of Appellate Defense, determines that the accused is indigent, it will represent the accused until final judgment, including any proceeding on direct appeal, without retained trial counsel's obtaining leave to withdraw. However, retained counsel shall assist in representing the accused in any manner necessary to properly establish the indigency of the accused and properly prepare the appeal, including but not limited to obtaining an affidavit of indigency from the accused, obtaining a court order declaring the accused's indigency from either the trial judge or the chief administrative judge of the circuit and in any other manner requested by the Division of Appellate Defense.

### **Counsel Fees and Expenses**

The application for counsel fees and/or expenses are made on such forms as prescribed and furnished by the S.C. Court Administration. Vouchers for fees or expenses should be submitted upon the completion of each stage of representation, trial and appeal stages, respectively. No voucher for fees or expenses except where specifically permitted by written order of the court shall be submitted prior to the completion of a state of representation.

After the completion of services in a state of representation, appointed counsel or public defenders must submit their voucher for fees and/or expenses within 30 days after such completion to the clerk of court of the county in which the services were performed.

Vouchers submitted for fees must show with specificity the hours of in-court and out-of-court time, with an explanation as to the nature of each entry.

Necessary expenses which must be approved by the trial judge by written order, prior to their being incurred, are fees of expert witnesses, costs of scientific tests or exhibits for trial demonstration, costs of psychiatric examinations and extraordinary travel expenses. The cost of long distance telephone calls should be submitted on the voucher. No other expenses may be submitted for reimbursement from the fund. All claims for expense against the defense fund must be shown on the voucher and must be accompanied by an original or

copy of the bills documenting such claim.

The court reporter's fee for providing the transcript of the trial proceeding may be reimbursed only after direct submission, by the court reporter, of a letter of transmittal showing the case name and number, the nature of the proceeding, the reporter's name, address and social security number, a copy of the written request for transcript, a copy of the order of appointment of the requesting party as counsel and a completed court reporter's bill. The providing of transcripts and billing rates are applicable to state court reporters as well as independent court reporters.

Only the cost of one original or one copy of any transcript per defendant, regardless of the number of counsel, may be reimbursed out of the defense fund.

No local reproduction or printing of a transcript or brief for the purpose of an appeal may be reimbursed out of the defense fund. For the purpose of appeal, the transcript and brief should be prepared for reproduction and forwarded to the clerk of the Supreme Court. Such papers should be accompanied by a letter of transmittal showing the attorney's name, a return address, a copy of the order of appointment of that attorney as counsel and a copy of the Notice of Appeal.

Upon approval of the papers as submitted, printing, filing and service as required by South Carolina Appellate Court Rules will be administratively accomplished, with a copy returned to the attorney submitting the papers. Any appeal papers not in compliance with South Carolina Appellate Court Rules may be returned for revision.

In any trial or appeal in which an indigent defendant intends to represent himself, no expenses related to his representation may be paid from the defense fund without his having first appeared before the court, or such designated officer, for the purpose of a determination of indigency and his having obtained a written order of the court finding that defendant competent to represent himself.

Where an indigent defendant represents himself, after first obtaining leave of court, expenses of representation at trial or appeal must be submitted to S.C. Court Administration in conformity with these rules and the Defense of Indigents Act, except that any vouchers or court reporter's bills submitted must be accompanied by written evidence of defendant's compliance with this rule. In any trial or appeal where the defendant represents himself, no fees of counsel may be allowed.

In any case in which more than one attorney is appointed to represent a defendant, the combined fees paid to such attorneys shall not exceed the maximum amounts as provided by statute relating to indigent representation.

In cases involving several defendants represented by appointed counsel who are tried together and who intend to appeal jointly, arrangements should be made, where possible, to

share the transcripts between defendants and attorneys.

In any case in which a defendant represented by appointed counsel and a defendant represented by retained counsel intend to appeal jointly, the procedures for the provision of transcripts and printing, and the payment of the costs thereof, shall be pursuant to these rules and the Defense of Indigents Act. S.C. Court Administration shall thereafter apportion an estimated amount of that cost and shall be reimbursed by the defendant who had retained counsel.

## Appendix

### List of Forms

- a. Affidavit of Indigency and Application for Counsel
- b. Affidavit of Surrender of Defendant By Surety
- c. Alcohol and Drug Safety Action Program Referral Form – CMS
- d. Alcohol and Drug Safety Action Program Referral Form – Non-CMS
- e. Bench Warrant
- f. Change of Address Form
- g. Community Service Record Log
- h. Courtesy Summons Warrant
- i. Disposition Request
- j. Driver's License Certification
- k. Expungement Objection Transmittal
- l. General Sessions Remand Memo
- m. Ishmell Order
- n. Jury Duty Certification
- o. Jury Summons
- p. Jury Trial Request
- q. Mental Health Court Referral
- r. Motion for New Trial
- s. Motion for Reconsideration of Sentence
- t. Motion Granted By Judge
- u. Motion To Be Relieved On Bond
- v. NRVC Notice
- w. Notice of Federal Firearms Prohibition
- x. Notice of Right To Preliminary Hearing
- y. Order of Appointment of Qualified Interpreter
- z. Order for Destruction of Arrest Records
- aa. Preliminary Hearing Notice
- bb. Public Service Employment Timesheet
- cc. Qualified Interpreter Time Sheet
- dd. Request for Appeal
- ee. Request for Payment for Qualified Interpreter
- ff. Restitution Agreement
- gg. School/Work Excuse
- hh. Search Warrant
- ii. Security Incident Reporting Log
- jj. Standard Time Payment Application
- kk. State Treasurer's Revenue Remittance Form
- ll. Subpoena

## **Other Attachments**

- a. MASC Opinion on Formal Relationships and Associations Between Municipal Court Officials and Municipal Law Enforcement Officials
- b. Code of Judicial Conduct
- c. Records Retention Schedules
- d. Additional Court Security Procedures



STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF \_\_\_\_\_ )  
 )  
 THE STATE OF SOUTH CAROLINA )  
 )  
 vs. )  
 )  
 \_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS  
 \_\_\_\_\_ JUDICIAL CIRCUIT  
  
**AFFIDAVIT OF INDIGENCY  
 AND  
 APPLICATION FOR COUNSEL**  
 (Defense of Indigency Act, Form No.2)

CRIMINAL CHARGING DOCUMENT NO. \_\_\_\_\_

NAME OF APPLICANT	
ADDRESS	
TELEPHONE NUMBER(S)	
DATE OF BIRTH	
SOCIAL SECURITY NO.	
NAMES OF CO-DEFENDANTS	

1. Are you presently employed? Yes  No

a. If "yes", state the amount of your salary or wages per month, and give the name and address of your employer.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER

If "no", state the name and address of last employment, date of termination of employment, and amount of your salary or wages per month.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER	TERMINATION DATE

2. Include employment information for the spouse, if applicable.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER

If the spouse is not currently employed, state the name and address of last employment, date of termination of employment, and amount of salary or wages per month.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER	TERMINATION DATE

3. List by name, age and relationship to you, any persons who are dependent upon you for support. Indicate beside each how much you contribute toward their support.

NAME	AGE	RELATIONSHIP	AMOUNT OF SUPPORT

4. Have you received within the past twelve months any money from any of the following sources?

- a. Business, profession or form of self-employment? Yes  No
- b. Rent payments, interest or dividends? Yes  No
- c. Pensions, annuities or life insurance payments? Yes  No
- d. Gifts or inheritances? Yes  No
- e. Any other sources? Yes  No

If the answer to any of the above is "yes", describe each source of money and state the amount received from each during the past twelve months.

SOURCE OF MONEY	AMOUNT

5. Do you own cash, or do you have any money in a checking or savings account?

Yes  No

If the answer is "yes", state the total amount of the cash owned. \_\_\_\_\_

6. Do you own any real estate, stocks, bonds, notes, or other valuable property (excluding ordinary household furnishings and clothing)?

Yes  No

If the answer is "yes", describe the property and state the appropriate value of the items owned.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. What kind of motor vehicle do you own? \_\_\_\_\_

Is it paid for? Yes  No

If not, what are the payments? \_\_\_\_\_

8. How much do you owe (on liens, mortgages, other encumbrances or debts)? \_\_\_\_\_

I do solemnly swear that the account by me delivered into this court with my application for counsel does contain a true and full account of all my real and personal estate, debts, credits and effects whatsoever without exception, which I or any person in trust for me have or at the time of my possession had, or am, or was, in any respect, entitled to, in possession, remainder or reversion and that I have not at any time since charges were made against me or before, directly or indirectly sold, leased, assigned or otherwise disposed of or made over, in trust for myself or otherwise, other than is mentioned herein.

**I understand the appointment of counsel creates a claim against the assets and estate of the person who is provided counsel or the parents or legal guardians of a juvenile in an amount equal to the cost of representation less the amount paid to appointed counsel, the public defender office and/or the Commission on Indigent Defense. I understand that such claim shall be filed in the office of the Clerk of Court in the county where I, my child, or ward are assigned counsel, but that the filing of a claim shall not constitute a lien against my real or personal property unless, in the discretion of the court, part of all of such claim is reduced to judgment by appropriate order of the court after serving me with at least thirty (30) days notice that judgment will be entered.**

**I understand that, pursuant to §17-3-30(b), I am required to pay a non-refundable \$40.00 application fee to the Clerk of Court for public defender services or other appointed counsel.**

I am financially unable to employ counsel and request that counsel be assigned to represent me. I understand that I am entitled to at least thirty days' notice before a claim against me may be reduced to judgment, and I do hereby waive the right to such notice.

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
Defendant or Parent/Guardian if applicable

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_  
(L.S.)  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_

-----  
The applicant's request for court-appointed counsel is hereby  granted /  denied.

Dated: \_\_\_\_\_  
\_\_\_\_\_, South Carolina  
Judge/Clerk or Deputy Clerk

STATE OF SOUTH CAROLINA, )  
 )  
COUNTY/MUNICIPALITY OF \_\_\_\_\_ )

IN THE COURT OF \_\_\_\_\_

**AFFIDAVIT OF SURRENDER OF  
DEFENDANT BY SURETY**

STATE OF SOUTH CAROLINA )

) Amount of Bond: \_\_\_\_\_

vs. )

) S.S.N.: \_\_\_\_\_

) D.O.B.: \_\_\_\_\_

\_\_\_\_\_  
Defendant. )

) By: \_\_\_\_\_

) Date of Bond: \_\_\_\_\_

IN RE: \_\_\_\_\_ )

) Surety )

PERSONALLY APPEARED BEFORE ME, the undersigned surety/deponent, who being duly sworn, states that he is a duly authorized representative of \_\_\_\_\_ Surety Company, who is contractually acting as surety for the above named defendant on the following  ticket  warrant  indictment number(s) and charges: \_\_\_\_\_

Defendant was incarcerated by surety/deponent for a violation or imminent violation of a specific term(s) of the bail bond as sworn to below. Surety/deponent states under penalty of perjury that the information contained in this Affidavit constitutes good cause for the immediate incarceration of defendant.

Defendant was incarcerated by  surety/deponent  law enforcement as the result of a bench warrant for a violation of a specific term(s) of the bail bond as stated in the bench warrant and sworn to below.

(Attach additional sheets if necessary.)

Sworn to and Subscribed before me )  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ )

\_\_\_\_\_  
Signature of Surety/Deponent

Notary Public for South Carolina )  
My Commission expires \_\_\_\_\_ )

\_\_\_\_\_  
Surety Company

I have received custody of the above named defendant pursuant to  immediate incarceration by surety  bench warrant and the defendant will remain in custody until such time as notice concerning defendant is received from a clerk of court or court of competent jurisdiction.

Officer: \_\_\_\_\_ Date: \_\_\_\_\_

Detention Facility for the:  County  Municipality of \_\_\_\_\_

**ADSAP/EDUCATION/TREATMENT REFERRAL FORM  
ENROLLMENT REQUIRED WITHIN 30 DAYS**

CMS

<b>C O U R T</b>	<b>A</b>	Court: Referring Judge Name: Court Address: Court Fax: Defendant Name: Address: City & State: Ticket/Warrant #                      DL#                      DL State: Convicted of (CDR Code-Description): Date of Conviction:	City/County: Court Phone: Court Email: Phone: Date of Birth: Indictment #:					
	<b>B</b>	<b>REFERRAL (Please check appropriate boxes.)</b>						
<b>U S E</b>	<b>B</b>	<input type="checkbox"/> Defendant is to enroll within 30 days, attend and complete a South Carolina certified ADSAP (Alcohol Drug Safety Action Program) pursuant to SC Code of Law sections 56-5-2930, 56-5-2933 and 56-5-2990. Defendant is subject to contempt of this court if there is failure to enroll within 30 days. Defendant is required to attend and complete a SC certified ADSAP and comply with recommendations of ADSAP.  <input type="checkbox"/> SC Department of Probation, Parole and Pardon Services (SCDPPPS) to receive notification if there is failure to enroll, attend and complete a SC certified ADSAP and comply with recommendations of ADSAP if the defendant is currently on supervision for the referred offense.						
	<b>C</b>	<b>NON-ADSAP ASSESSMENT/TREATMENT PROGRAM REFERRAL (See site list.)</b> Program Site:    Reason for Referral: Address: City/State Zip: Other Instructions: Enroll by Date:						
<b>P R O G R A M</b>	<b>D</b>	<b>ADSAP/OTHER PROGRAM REPORT</b>						
	<b>E</b>	<table style="width:100%; border:none;"> <tr> <td style="width:50%; border-right:1px solid black; vertical-align:top;"> <input type="checkbox"/> Failed to Enroll  <input type="checkbox"/> Failed to Complete (Summary Attached)  <input type="checkbox"/> Assessment Date:  <input type="checkbox"/> Completion Date: _____ (for SCDPPPS)                             </td> <td style="width:50%; vertical-align:top;"> <b>Treatment Recommendations:</b>  <input type="checkbox"/> PRI                                      <input type="checkbox"/> Relapse Prevention  <input type="checkbox"/> Outpatient                              <input type="checkbox"/>  <input type="checkbox"/> Intensive Outpatient              (Alternative Services)  <input type="checkbox"/> Inpatient                             </td> </tr> <tr> <td style="border-right:1px solid black; vertical-align:top;">                     _____                      Clinical Counselor (Signature)                 </td> <td style="vertical-align:top;">                     _____                      Defendant's Signature (If applicable)                 </td> </tr> <tr> <td style="border-right:1px solid black; vertical-align:top;">                     _____                      Clinical Counselor Name (Print)                      Date                 </td> <td style="vertical-align:top;">                     _____                      Date                 </td> </tr> </table>		<input type="checkbox"/> Failed to Enroll <input type="checkbox"/> Failed to Complete (Summary Attached) <input type="checkbox"/> Assessment Date: <input type="checkbox"/> Completion Date: _____ (for SCDPPPS)	<b>Treatment Recommendations:</b> <input type="checkbox"/> PRI <input type="checkbox"/> Relapse Prevention <input type="checkbox"/> Outpatient <input type="checkbox"/> <input type="checkbox"/> Intensive Outpatient              (Alternative Services) <input type="checkbox"/> Inpatient	_____ Clinical Counselor (Signature)	_____ Defendant's Signature (If applicable)	_____ Clinical Counselor Name (Print)                      Date
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_____ Clinical Counselor (Signature)	_____ Defendant's Signature (If applicable)							
_____ Clinical Counselor Name (Print)                      Date	_____ Date							
<b>U S F</b>	<b>E</b>	<b>ADSAP COUNSELOR</b>						
	<b>E</b>	The counselor's signature indicates that treatment has been completed in accordance with South Carolina law and that the defendant is in compliance with the recommendations of the ADSAP program and order of the court.  _____ Clinical Counselor Name (Signature)  _____ Clinical Counselor Name (Print)                      Date						

**ADSAP/EDUCATION/TREATMENT REFERRAL FORM  
ENROLLMENT REQUIRED WITHIN 30 DAYS**

**NON CMS**

<b>C O U R T</b>	<b>A</b>	Court: _____ City/County: _____ Referring Judge Name: _____ Court Phone: _____ Court Address: _____ Court Fax: _____ Court Email: _____ Defendant Name: _____ Address: _____ Phone: _____ City & State: _____ Date of Birth: _____ Ticket/Warrant # _____ DL# _____ DL State: _____						
	Convicted of: <table style="display: inline-table; vertical-align: top; margin-left: 20px;"> <tr> <td><input type="checkbox"/> DUAC: 1<sup>st</sup> Offense</td> <td><input type="checkbox"/> DUI: 1<sup>st</sup> Offense</td> </tr> <tr> <td><input type="checkbox"/> DUAC: 2<sup>nd</sup> Offense</td> <td><input type="checkbox"/> DUI: 2<sup>nd</sup> Offense</td> </tr> <tr> <td><input type="checkbox"/> DUAC: 3<sup>rd</sup> Offense</td> <td><input type="checkbox"/> DUI: 3<sup>rd</sup> Offense</td> </tr> <tr> <td><input type="checkbox"/> DUAC: 4<sup>th</sup> Offense</td> <td><input type="checkbox"/> DUI: 4<sup>th</sup> Offense or Subsequent</td> </tr> </table>	<input type="checkbox"/> DUAC: 1 <sup>st</sup> Offense	<input type="checkbox"/> DUI: 1 <sup>st</sup> Offense	<input type="checkbox"/> DUAC: 2 <sup>nd</sup> Offense	<input type="checkbox"/> DUI: 2 <sup>nd</sup> Offense	<input type="checkbox"/> DUAC: 3 <sup>rd</sup> Offense	<input type="checkbox"/> DUI: 3 <sup>rd</sup> Offense	<input type="checkbox"/> DUAC: 4 <sup>th</sup> Offense
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<input type="checkbox"/> DUAC: 2 <sup>nd</sup> Offense	<input type="checkbox"/> DUI: 2 <sup>nd</sup> Offense							
<input type="checkbox"/> DUAC: 3 <sup>rd</sup> Offense	<input type="checkbox"/> DUI: 3 <sup>rd</sup> Offense							
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<b>P R O G R A M</b>	<b>B</b>	<p align="center"><b>REFERRAL (Please check appropriate boxes)</b></p> <input type="checkbox"/> Defendant is to enroll within 30 days, attend and complete a South Carolina certified ADSAP (Alcohol Drug Safety Action Program) pursuant to SC Code of Law sections 56-5-2930, 56-5-2933 and 56-5-2990. Defendant is subject to contempt of this court if there is failure to enroll within 30 days. Defendant is required to attend and complete a SC certified ADSAP and comply with recommendations of ADSAP.  <input type="checkbox"/> SC Department of Probation, Parole and Pardon Services (SCDPPPS) to receive notification if there is failure to enroll, attend and complete a SC certified ADSAP and comply with recommendations of ADSAP if the defendant is currently on supervision for the referred offense. ADSAP Site (See Site List.): _____ Enroll By Date: _____ Agency Name: _____ Phone Number: _____ Address: _____ ADSAP Fax: _____ ADSAP Email: _____						
	<b>C</b>	<p align="center"><b>NON-ADSAP ASSESSMENT/TREATMENT PROGRAM REFERRAL (See site list.)</b></p> Program Site: _____ Reason for Referral: _____ Address: _____ City/State Zip: _____ Other Instructions: _____ Enroll by Date: _____						
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_____ Clinical Counselor (Signature)	_____ Defendant's Signature (If applicable)							
_____ Clinical Counselor Name (Print)	_____ Date							
<b>U S E</b>	<b>E</b>	<p align="center"><b>ADSAP COUNSELOR</b></p> The counselor's signature indicates that treatment has been completed in accordance with South Carolina law and that the defendant is in compliance with the recommendations of the ADSAP program and order of the court.  _____ Clinical Counselor Name (Signature)  _____ Clinical Counselor Name (Print)						

**BENCH WARRANT**  
**STATE OF SOUTH CAROLINA**  
**COUNTY OF \_\_\_\_\_**

\_\_\_\_\_  
vs.  
\_\_\_\_\_

**BENCH WARRANT**

\_\_\_\_\_  
Bench Warrant No. \_\_\_\_\_  
Issued \_\_, 20 \_\_\_\_\_  
Court \_\_\_\_\_  
Home Address \_\_\_\_\_  
Business Address \_\_\_\_\_  
Sex \_\_\_\_\_ Race \_\_\_\_\_ DOB \_\_\_\_\_  
Height \_\_\_\_\_ Weight \_\_\_\_\_  
Eyes \_\_\_\_\_ Hair \_\_\_\_\_  
Social Security No. \_\_\_\_\_

.....  
**Return of Service**

Note:

This return of service shall be printed or  
Typed to the left of the above Bench  
Warrant information, both on the back  
of the warrant.

**RETURN OF SERVICE**

Date Served \_\_\_\_\_

Served by \_\_\_\_\_

-or-

Date Returned \_\_\_\_\_

Reason for Return \_\_\_\_\_  
\_\_\_\_\_

STATE OF SOUTH CAROLINA

CITY OF \_\_\_\_\_

STATE OF SOUTH CAROLINA

vs

Defendant

\_\_\_\_\_  
CRIMINAL CASE NUMBER

IN THE SUMMARY COURT

CHANGE OF ADDRESS

Case Number(s):

Officer Name:

Agency:

Original Court Date and Time:

New Permanent Address:

New Mailing Address:

Phone Number:

Attorney of Record:

Address & Phone Number:

**I understand that if my address changes, it is MY responsibility to notify the Court in writing immediately.**

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Signature of Defendant



# TOWN OF MOUNT PLEASANT



**Municipal Court**  
100 Ann Edwards Lane  
P.O. Box 457  
Mount Pleasant, S.C. 29465  
843-884-6798 • Fax 843-856-2514

AGENCY NAME: \_\_\_\_\_

Community Service Record log for \_\_\_\_\_  
name of volunteer

Date	Time In	Time Out	Total Hours

TOTAL HOURS \_\_\_\_\_

I, \_\_\_\_\_ certify the above information to be correct. I can  
(Director of agency)  
be reached at \_\_\_\_\_ if you have any questions.  
(phone number)



# TOWN OF MOUNT PLEASANT



**Municipal Court**  
100 Ann Edwards Lane  
P.O. Box 457  
Mount Pleasant, S.C. 29465  
843-884-6796 • Fax 843-856-2514

DATE: \_\_\_\_\_

**30-4-30. RIGHT TO INSPECT OR COPY PUBLIC RECORDS; NOTIFICATION AS TO PUBLIC AVAILABILITY OF RECORDS; PRESUMPTION UPON FAILURE TO GIVE NOTICE.**

UNDER THE FREEDOM OF INFORMATION ACT, I \_\_\_\_\_  
PLEASE PRINT NAME

WOULD LIKE TO REQUEST A DISPOSITION ON \_\_\_\_\_  
DEFENDANT'S NAME

PERTAINING TO ANY CHARGES THAT WERE HANDLED IN THE MOUNT PLEASANT MUNICIPAL COURT.

DOB: \_\_\_\_\_ TICKET/WARRANT # \_\_\_\_\_

SSN # \_\_\_\_\_

SCDL # \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY/TOWN

RECEIVED BY: \_\_\_\_\_

PHONE \_\_\_\_\_

DATE: \_\_\_\_\_

THIS INFORMATION IS BEING REQUESTED FOR EXPUNGEMENT PURPOSES

**STATE OF SOUTH CAROLINA**

**\*\* Please Print \*\***

**Full Name:** \_\_\_\_\_

**Date of Birth:** \_\_\_\_\_

**Driver License #:** \_\_\_\_\_

I, the undersigned, hereby certify that the South Carolina driver license listed above which was issued to me is not in my possession. The license is not surrendered to the Court as required by law. This Certification is being made in order to comply with Section 56-1-365 of the South Carolina Code of Laws. Conviction or falsification of this statement is punishable by a fine of one hundred dollars or imprisonment for thirty days as established by Section 56-1-510 of the South Carolina Code of Laws.

Check One:

( ) Driver license lost, stolen, misplaced.

( ) Surrendered to: \_\_\_\_\_

Date Surrendered: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City/State/Zip code

Sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_

\_\_\_\_\_  
Notary Public of South Carolina

THE STATE OF SOUTH CAROLINA

Race \_\_\_\_\_ Sex \_\_\_\_\_ Age \_\_\_\_\_

DOB \_\_\_\_\_ SSN \_\_\_\_\_

vs.

SID # \_\_\_\_\_

Defendant \_\_\_\_\_

Charges were disposed of in the court indicated below:

Magistrate  Municipal

AKA \_\_\_\_\_

The summary court has initiated, on the defendant's behalf, an Order of Expungement to have all records relating to this offense expunged and destroyed pursuant to South Carolina Code of Laws, Sections 17-22-950 and 17-1-40.

Warrant/Ticket/ \_\_\_\_\_ Date of \_\_\_\_\_ Place of \_\_\_\_\_ County, S.C.  
Courtesy Summons \_\_\_\_\_ Arrest/Service \_\_\_\_\_ Arrest/Service \_\_\_\_\_

Warrant/Ticket/ \_\_\_\_\_ Date of \_\_\_\_\_ Place of \_\_\_\_\_ County, S.C.  
Courtesy Summons \_\_\_\_\_ Arrest/Service \_\_\_\_\_ Arrest/Service \_\_\_\_\_

Arrest Charge(s) \_\_\_\_\_

- The defendant was found not guilty on \_\_\_\_\_.
- The charge(s) listed above were dismissed on \_\_\_\_\_.
- The charge(s) listed above were nol prossed on \_\_\_\_\_.
- The defendant was charged pursuant to Section 34-11-90, made restitution, and paid the administrative fee to the County resulting in a dismissal on \_\_\_\_\_.

\_\_\_\_\_ (name) of \_\_\_\_\_ (organization) filed a written objection (copy attached) to the expungement of this record based on the following statutory basis:

The prosecuting agency filed a written objection (copy attached) to the expungement of this record based on the following statutory basis:

- The accused person has other charges pending
- The prosecuting agency or the appropriate law enforcement agency believes that the evidence in the case needs to be preserved; or
- The accused person's charges were dismissed as a part of a plea agreement.

South Carolina Code of Laws Section 17-22-950(A) requires that in the event an objection is filed, the court of General Sessions must determine whether to allow the record to be expunged. I provide the following documentation to the Circuit Court for a determination as to whether the charge(s) should be expunged.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Summary Court Judge

ORDER OF THE CIRCUIT COURT JUDGE

A hearing was held in the above-referenced matter on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_. Present at the time of the hearing were \_\_\_\_\_. Based on the testimony, evidence, and record in this case, this court finds the following: \_\_\_\_\_.

The above listed offense(s) shall be expunged by the summary court.

The above listed offense(s) shall not be expunged.

Date: \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Circuit Court Judge

GENERAL SESSIONS REMAND MEMO

COURT OF COMMON PLEAS  
AND GENERAL SESSIONS  
100 BROAD STREET, SUITE 106  
CHARLESTON, S.C. 29401-2258  
843-958-5000 FAX 958-5020  
WWW3.CHARLESTONCOUNTY.ORG

FAMILY COURT OF THE  
NINTH JUDICIAL CIRCUIT  
100 BROAD STREET, SUITE 143  
CHARLESTON, S.C. 29401-2265  
843-958-4400 FAX 958-4434  
WWW3.CHARLESTONCOUNTY.ORG

STATE OF SOUTH CAROLINA

RE:

TO: -----  
MUNICIPAL COURT  
-----

- (1) IN ORDER FOR THIS OFFICE TO PROVIDE YOU WITH THE COPIES YOU ARE REQUESTING YOU MUST 1.) PAY THE \$5.00 FEE OR 2.) PROVIDE US WITH A STATEMENT FROM THE SCDC EAST COOPER TRUST FUND WHICH SHOWS THE FINANCIAL STATUS OF YOUR ACCOUNT, IF YOUR ACCOUNT REFLECTS NO MONIES HAVE BEEN RECEIVED YOU WILL NOT BE CHARGED THE FEE.
- (2) INSUFFICIENT AMOUNT OF FILING FEE. CORRECT FEE AMOUNT: -----
- (3) WARRANT/INDICTMENT NUMBER IS REQUIRED IN ORDER TO FILE REQUEST. -----
- (4) JAIL TIME SHOULD BE REQUESTED THROUGH YOUR CASEWORKER/ATTORNEY. -----
- (5) YOU NEED TO CONTACT COURT REPORTER FOR YOUR TRANSCRIPT. -----
- (6) YOU WILL NEED TO CONTACT THE AGENCY PLACING THE DETAINER. THIS OFFICE CANNOT PLACE OR RELEASE A DETAINER. -----
- (7) XXXX THIS CASE HAS BEEN REMANDED TO YOUR COURT. PLEASE SIGN AND RETURN ACKNOWLEDGING THAT YOU HAVE RECEIVED. THANK YOU. -----

WARRANT #:  
-----  
-----  
-----

**RECEIVED**

- (8) RESEARCH COMPLETED. DOCUMENTS ENCLOSED. PLEASE FORWARD -----

DEPUTY CLERK

MGA

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF )  
 )  
CITY OF )  
vs. )  
 )  
Defendant. )  
 )  
 )  
 )  
DRIVER LICENSE NO. )

IN THE COURT OF  
ORDER

RE: \_\_\_\_\_  
TICKET NUMBER  
\_\_\_\_\_  
S.C.  
TYPE OF VIOLATION

It appears that the above described traffic ticket should be returned to the Clerk of Court of \_\_\_\_\_ and the case reopened based upon the following information:

1. This case was initially disposed of on \_\_\_\_\_ .
2. Defendant received notice of the disposition of the case on or about \_\_\_\_\_ .
3. A request to reopen the case was made on \_\_\_\_\_ And the said request was timely.
4. This case should be reopened for the following reason: \_\_\_\_\_ .
5. The prosecuting authority was notified of this request as is indicated by the signature affixed below.

This Order is issued in accordance with the requirements established by Ishmell vs. South Carolina State Highway Department, 264 S.C. 340, 215 S.E. 2d 201 (1975).

AND IT IS ORDERED!

Dated:

\_\_\_\_\_  
JUDGE

I HAVE BEEN NOTIFIED OF THIS REQUEST:

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE



STATE OF SOUTH CAROLINA

COUNTY OF

)  
)  
)  
)  
)

CASE NUMBER

JURY DUTY CERTIFICATION

JUROR:

I certify that the above named juror was summoned and did appear for jury service; and is therefore entitled to the following:

\$ for compensation

\$ for service as a juror in the actions named below:

vs.

vs.

In a total amount of \$ 0.00.

Dated:

\_\_\_\_\_

\_\_\_\_\_

STATE OF SOUTH CAROLINA

COUNTY OF \_\_\_\_\_

\_\_\_\_\_  
PLAINTIFF(S)

VS.

\_\_\_\_\_  
DEFENDANT(S)

\_\_\_\_\_  
CASE NUMBER  
IN THE \_\_\_\_\_ COURT

JURY SUMMONS

TO: \_\_\_\_\_

YOU ARE SUMMONED to appear on the \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ at \_\_\_\_\_ am/pm (circle one), before the court of Judge \_\_\_\_\_  
located at \_\_\_\_\_

SC \_\_\_\_\_ to serve as a juror.

Failure to appear may subject you to punishment for contempt of court.

Dated: \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
 )

DEFENDANT'S REQUEST FOR TRIAL BY JURY

TO: MUNICIPAL COURT  
FROM: \_\_\_\_\_ (print name of Defendant)  
REF: DEFENDANT INFORMATION

In reference to the charge of \_\_\_\_\_  
\_\_\_\_\_ I have requested a trial by jury. I have informed this court  
that my address is \_\_\_\_\_, my home  
telephone number is (area code included): \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_, and that I am represented by Attorney  
\_\_\_\_\_.

If my address changes, I must notify the clerks office of this court immediately of the new address. Notices of  
my trial date will be sent to this address I have supplied to this court. IF I FAIL TO APPEAR ON MY COURT DATE, I  
MAY BE TRIED IN MY ABSENCE.

I have the right to be represented by an attorney. If I can not retain an attorney on my own funds, the State will  
supply an attorney for me at no cost. IT IS MY DUTY TO HAVE AN ATTORNEY FOR TRIAL. If I wish to have an  
attorney to be appointed, I must make a request with the court for the appointment of an attorney immediately. I  
understand that I cannot wait to make arrangements for my attorney until my trial date.

I hereby acknowledge that I have received a copy of this notice, that I have been offered to have this notice  
explained to me and that I understand the contents of this notice. I agree to appear for jury selection on the date set by  
this court to either select a jury or inform the court of my intention to attend my trial, regardless of whether or not I  
participate in the jury selection process.

Initials \_\_\_\_\_ **IF I CHOOSE NOT TO APPEAR FOR JURY SELECTION AT THE TIME AND  
DATE SET BY THIS COURT, I HEREBY WAIVE MY RIGHT TO A JURY TRIAL  
AND REQUEST THAT MY CASE BE HEARD BEFORE THE COURT AS A NON-  
JURY MATTER UNLESS I ADVISE THE COURT IN WRITING BEFORE THE  
DATE OF SELECTION THAT I WILL ACCEPT THE JURY AS CHOSEN.**

I further agree to appear for trial on the date set by this court, ready to proceed to trial.

\_\_\_\_\_  
Defendant

Date: \_\_\_\_\_  
\_\_\_\_\_  
Clerk

I have been informed of my right to have a public defender represent me at trial at no cost to me. I have been  
further informed that I am either qualified for a public defender, or, that I may be examined by the court to determine my  
qualifications. I hereby waive my right to have a public defender and affirm that I will make arrangements for my own  
representation.

Date: \_\_\_\_\_  
\_\_\_\_\_  
Defendant

MENTAL HEALTH COURT REFERRAL PROCEDURE (TYPE A)

Section I - to be completed by Referring Office

Date: \_\_\_\_\_

Referring Office: \_\_\_\_\_ Legal Status (circle one): Jailed On Bond On Probation

Contact person: \_\_\_\_\_ Phone #: \_\_\_\_\_ PD/Solicitor: \_\_\_\_\_ (if known)

Potential Participant's Name: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Sex: \_\_\_\_\_ Race: \_\_\_\_\_

Current Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Next of Kin: \_\_\_\_\_ Relationship: \_\_\_\_\_ Phone: \_\_\_\_\_

Current Charge(s): \_\_\_\_\_

Reason for Referral: \_\_\_\_\_

\*\*\* FAX PROMPTLY TO MENTAL HEALTH COORDINATOR: 843- 958-5191 \*\*\*\*

Mental Health Court participants must have appropriate diagnostic criteria for inclusion into Court.

Section II - to be completed by Mental Health Screener: \_\_\_\_\_

Inmate Number: \_\_\_\_\_ Date of Arrest: \_\_\_\_\_ Date of Exam: \_\_\_\_\_

Current Charges are (circle all that apply): Magistrate General Sessions Probation

Judge of Original Jurisdiction: Municipal Family Court Federal Court

any previous known violent offenses, if any: \_\_\_\_\_

Mental Health Diagnosis(s) - past or present: \_\_\_\_\_

Medications(s) - past or present: \_\_\_\_\_ Medication last taken: \_\_\_\_\_

Do you wish to be considered for Mental Health Court? \_\_\_\_\_ Initials: \_\_\_\_\_

I hereby authorize the release of my legal and mental health records to all parties involved in the Mental Health Court including but not limited to Charleston/Dorchester Community Mental Health, Charleston County Public Defender's Office, Charleston County Solicitor's Office, South Carolina Department of Probation, Parole and Pardons, Charleston County Probate Court, Charleston County Magistrate Court, General Sessions Court of South Carolina, and all other agencies deemed necessary by the Mental Health Court of Charleston County. I also authorize the Mental Health Court to contact any victim(s) associated with these charges in order to gain their consent to the program.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Witness: \_\_\_\_\_

Mental Health Screener Brief Impressions/Recommendations: \_\_\_\_\_

\*Promptly fax to Mental Health Court Coordinator at 843-958-5191. Date of Fax: \_\_\_\_\_

Section III - to be completed by Mental Health Court Coordinator Received: \_\_\_\_\_

Disposition of Referral: Accept \_\_\_\_\_ Decline \_\_\_\_\_ Signature: \_\_\_\_\_

Outcome Status: Successful Completion \_\_\_\_\_ Unsuccessful Completion \_\_\_\_\_ Rejected \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
 VS. )  
 )  
 \_\_\_\_\_ )

MUNICIPAL COURT

MOTION FOR NEW TRIAL

\_\_\_\_\_  
TICKET #(S)

The above named Defendant hereby moves that the Municipal Court of  
grant a new trial on the charges of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The original trial was held on \_\_\_\_\_ at \_\_\_\_\_ AM/PM

This motion is made on the following facts and is verified as true and correct by the  
undersigned:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Motion Received: \_\_\_\_\_

Respectfully Submitted.

\_\_\_\_\_ at \_\_\_\_\_  
Date/Time

\_\_\_\_\_  
Moving Party

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

PLEASE RETURN SIGNED COPY TO

WITHIN 5 DAYS!

City Prosecutor or Issuing Officer:

I consent: \_\_\_\_\_ to a Motion Hearing in the above referenced case.

I do not consent: \_\_\_\_\_ to a Motion Hearing in the above referenced case.

\_\_\_\_\_  
Officer's Signature

Motion is granted: \_\_\_\_\_

Motion is denied: \_\_\_\_\_

Transmitted on: \_\_\_\_\_

\_\_\_\_\_  
MUNICIPAL JUDGE

Date defendant was notified of disposition: \_\_\_\_\_

Date request was made to reopen: \_\_\_\_\_

STATE OF SOUTH CAROLINA

MUNICIPAL COURT

VS.

MOTION FOR RECONSIDERATION OF SENTENCE

TICKET. #(s) \_\_\_\_\_

The above named Defendant hereby moves that the Municipal Court of \_\_\_\_\_ grant a reconsideration of the sentence on the charges of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The original trial was held on \_\_\_\_\_, at \_\_\_\_\_ AM/PM.

This motion is made on the following facts and is verified as true and correct by the undersigned:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Motion Received: \_\_\_\_\_

Respectfully Submitted.

Date/Time \_\_\_\_\_

Moving Party \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

City Prosecutor or Issuing Officer:

I consent: \_\_\_\_\_

I do not consent: \_\_\_\_\_

Motion is granted: \_\_\_\_\_

This motion is denied: \_\_\_\_\_

Transmitted on: \_\_\_\_\_

\_\_\_\_\_  
Municipal Judge

STATE OF SOUTH CAROLINA

MUNICIPAL COURT

VS.

MOTION GRANTED BY JUDGE

DEFENDANT

CITATION#: \_\_\_\_\_

ORIGINAL TRIAL DATE: \_\_\_\_\_

DATE WHEN MOTION WAS GRANTED: \_\_\_\_\_

DEFENDANT'S NEW COURT DATE: \_\_\_\_\_

The Defendant was advised and understands that his/her right to request a Trial by Jury is not affected by the motion to reopen of the case from its original trial date.

The Defendant was also advised and understands that if he/she wants a Trial by Jury, that a written request or in-person request must be received by \_\_\_\_\_ Municipal Court before \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

IT IS SO ORDERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_

MUNICIPAL JUDGE  
ADMINISTRATIVE CLERK OF COURT

I HAVE FULLY READ, UNDERSTAND AND AGREE TO THE TERMS ABOVE AND RECEIVED A COPY:

DEFENDANT

STATE OF SOUTH CAROLINA )  
COUNTY OF \_\_\_\_\_ )

IN THE COURT OF \_\_\_\_\_

) WARRANT/TICKET/  
) INDICTMENT # \_\_\_\_\_

STATE OF SOUTH CAROLINA )

) AMOUNT OF BOND \_\_\_\_\_

-vs- )

DEFENDANT )

) SSN \_\_\_\_\_ DOB \_\_\_\_\_

IN RE: )

) DATE BOND POSTED \_\_\_\_\_

SURETY )

MOTION TO BE RELIEVED  
ON BOND

PLEASE TAKE NOTICE that \_\_\_\_\_  
Surety, moves before this Court, such motion to be heard on the date and time indicated below, requesting  
an Order to be Relieved on the bond of the above named defendant.

Surety moves to be relieved on the bond based on the following grounds and facts as stated in the attached  
affidavit (affidavit required):

- 1. To prevent defendant from committing an imminent violation of specific terms of the bail bond.
- 2. The defendant has violated any one of the specific terms of the bond.
- 3. Other: (specify) \_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission expires: \_\_\_\_\_

SURETY

**ORDER OF COURT**

The above motion is hereby  GRANTED  DENIED.  
The bond shall be set at \_\_\_\_\_  remain as is.

Defendant to be  committed  released under the above  
charge(s).

Date and Location: \_\_\_\_\_ County, South Carolina,

**NOTICE OF HEARING**

Please take notice that a hearing on  
the above motion is scheduled at the

located at \_\_\_\_\_  
at \_\_\_\_\_ o'clock on \_\_\_\_\_

If you do not appear, the hearing will be

held in your absence.

JUDGE \_\_\_\_\_

SCCA/635 (07/2008)  Court Copy  Defendant Copy  Solicitor's Copy  Surety Copy



**STATE OF  
SOUTH CAROLINA**



**NOTICE OF FAILURE TO COMPLY WITH TERMS OF CITATION**

YOU HAVE FAILED TO RESPOND TO THE CITATION DESCRIBED IN THIS NOTICE BY APPEARING IN COURT OR PAYING THE FINE WITHIN THE PRESCRIBED TIME LIMIT, AND AS A RESULT YOU HAVE BEEN TRIED IN YOUR ABSENCE AND FOUND GUILTY. FAILURE TO REPLY TO THE FINE WITHIN 15 DAYS FROM THE DATE SHOWN IN THE LOWER RIGHT CORNER OF THIS NOTICE WILL RESULT IN NOTIFYING THE LICENSING AUTHORITY IN YOUR STATE TO SUSPEND YOUR DRIVER'S LICENSE UNTIL THE FINE HAS BEEN PAID. PAYABLE BY CERTIFIED CHECK OR MONEY ORDER.

CITATION NO	DATE OF VIOLATION	LOCATION OF VIOLATION	DOCKET NO	SECTION VIOLATED
DESCRIPTION OF VIOLATION			FINE AND COSTS	TRIAL DATE

DRIVER'S LICENSE NO.		STATE	DATE OF BIRTH	
NAME LAST	FIRST	MIDDLE	SEX	
STREET ADDRESS				
CITY		STATE	ZIP CODE	
REGS (TAG) NO	STATE	YEAR	MAKE	MODEL

C O U R T  I N F O	NAME OF COURT
	MAILING ADDRESS
	CITY STATE ZIP CODE
	TELEPHONE AREA CODE ( NUMBER
	AUTHORIZED BY DATE

FORM DL-33 (REVISED 7-87)

**#1 DEFENDANT'S NOTICE**



NOTICE OF RIGHT TO PRELIMINARY HEARING

STATE OF SOUTH CAROLINA )

) UNIFORM WARRANT NUMBERS:

) 1. \_\_\_\_\_ 3. \_\_\_\_\_ 5. \_\_\_\_\_

COUNTY OF \_\_\_\_\_ ) 2. \_\_\_\_\_ 4. \_\_\_\_\_ 6. \_\_\_\_\_

Mr./Ms., \_\_\_\_\_ you are charged with \_\_\_\_\_

\_\_\_\_\_ and you may be entitled to a Preliminary Hearing. You must request a Preliminary Hearing within ten (10) days of this notice or lose your right to such a hearing. You may request such hearing by completing the lower left section of this notice and returning it to the Court either in person or by mail to the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I request a Preliminary Hearing.

NOTICE GIVEN BY:

Defendant: \_\_\_\_\_

Address: \_\_\_\_\_

Judge \_\_\_\_\_

Date \_\_\_\_\_

My Attorney is: \_\_\_\_\_

FOR COURT USE ONLY	
Date Request Received	
By	



STATE OF SOUTH CAROLINA  
COUNTY/MUNICIPALITY OF \_\_\_\_\_

IN THE MAGISTRATE/MUNICIPAL COURT  
ORDER FOR DESTRUCTION OF ARREST RECORDS

THE STATE OF SOUTH CAROLINA

Race \_\_\_\_\_ Sex \_\_\_\_\_

DOB \_\_\_\_\_ SSN \_\_\_\_\_

vs.

SID # \_\_\_\_\_

Charges were disposed of in the court indicated below:

Magistrate  Municipal

Defendant \_\_\_\_\_

Address \_\_\_\_\_

AKA \_\_\_\_\_

IT APPEARS that, pursuant to Sections 17-22-950 and 17-1-40 of the South Carolina Code of Laws, the defendant is entitled to have all records relating to this offense expunged and destroyed at no cost to the defendant. Summary Court expungements pursuant to S.C. Code of Laws Section 17-22-950 have been preapproved by SLED.

Warrant/Ticket/ \_\_\_\_\_ Date of \_\_\_\_\_ Place of \_\_\_\_\_  
Courtesy Summons \_\_\_\_\_ Arrest/Service \_\_\_\_\_ Arrest/Service \_\_\_\_\_ County, S.C

Warrant/Ticket/ \_\_\_\_\_ Date of \_\_\_\_\_ Place of \_\_\_\_\_  
Courtesy Summons \_\_\_\_\_ Arrest/Service \_\_\_\_\_ Arrest/Service \_\_\_\_\_ County, S.C

Charge(s) \_\_\_\_\_

The above charge is eligible for expungement because it is a summary level offense and:

- The charge was dismissed on \_\_\_\_\_ (Date).
- The charge was *not* proessed on \_\_\_\_\_ (Date).
- The defendant was found not guilty on \_\_\_\_\_ (Date).
- The defendant was charged pursuant to Section 34-11-90, made restitution, and paid the administrative fee to the County resulting in a dismissal on \_\_\_\_\_ (Date).

IT IS ORDERED that all records relating to such arrest/court summons and subsequent discharge pursuant to the above-referenced section be dismissed, expunged and immediately destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency except nonpublic information retained by SC Law Enforcement Division (SLED).

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Summary Court Judge

\_\_\_\_\_  
Prosecutor/ Prosecuting Officer/ Affiant (Circle One)  
(To Verify Accuracy of Disposition)

Expunged by SLED by: \_\_\_\_\_ Date: \_\_\_\_\_ (For SLED internal use only)

**Preliminary Hearing Notice**

of:  Request for Copy of Warrant(s) – Part I

Warrant Dismissal(s) – Part II

STATE vs. \_\_\_\_\_

<b>Part I</b>	TO: CLERK OF COURT. A preliminary hearing has been requested by the above named defendant and will be held  _____ Date/Time/Place  Defendant represented by:  _____  Please provide a certified copy of the listed criminal warrant(s) for the purpose of a preliminary hearing. <table border="0" data-bbox="284 724 1494 966"><thead><tr><th data-bbox="500 724 678 766">Warrant Number</th><th data-bbox="1101 724 1284 766">Warrant Number</th></tr></thead><tbody><tr><td data-bbox="293 787 893 850">1. _____</td><td data-bbox="901 787 1494 850">4. _____</td></tr><tr><td data-bbox="293 850 893 913">2. _____</td><td data-bbox="901 850 1494 913">5. _____</td></tr><tr><td data-bbox="293 913 893 966">3. _____</td><td data-bbox="901 913 1494 966">6. _____</td></tr></tbody></table>	Warrant Number	Warrant Number	1. _____	4. _____	2. _____	5. _____	3. _____	6. _____						
Warrant Number	Warrant Number														
1. _____	4. _____														
2. _____	5. _____														
3. _____	6. _____														
<b>Part II</b>	To: SOLICITOR. A preliminary hearing was held in the case of the above named defendant. The warrant(s) listed below was dismissed on the date indicated. <table border="0" data-bbox="284 1081 1494 1501"><thead><tr><th data-bbox="479 1092 657 1134">Warrant Number</th><th data-bbox="1079 1092 1250 1134">Date Dismissed</th></tr></thead><tbody><tr><td data-bbox="293 1155 812 1207">1. _____</td><td data-bbox="844 1155 1477 1207">_____</td></tr><tr><td data-bbox="293 1207 812 1270">2. _____</td><td data-bbox="844 1207 1477 1270">_____</td></tr><tr><td data-bbox="293 1270 812 1333">3. _____</td><td data-bbox="844 1270 1477 1333">_____</td></tr><tr><td data-bbox="293 1333 812 1396">4. _____</td><td data-bbox="844 1333 1477 1396">_____</td></tr><tr><td data-bbox="293 1396 812 1459">5. _____</td><td data-bbox="844 1396 1477 1459">_____</td></tr><tr><td data-bbox="293 1459 812 1512">6. _____</td><td data-bbox="844 1459 1477 1512">_____</td></tr></tbody></table>	Warrant Number	Date Dismissed	1. _____	_____	2. _____	_____	3. _____	_____	4. _____	_____	5. _____	_____	6. _____	_____
Warrant Number	Date Dismissed														
1. _____	_____														
2. _____	_____														
3. _____	_____														
4. _____	_____														
5. _____	_____														
6. _____	_____														

Date Transmitted: \_\_\_\_\_

Judge Code: \_\_\_\_\_ Signature: \_\_\_\_\_

Municipality - \_\_\_\_\_

County - \_\_\_\_\_

STATE OF SOUTH CAROLINA )

COUNTY/CITY OF )

v. )

CASE NUMBER(S)

IN THE SUMMARY COURT

**PUBLIC SERVICE EMPLOYMENT TIMESHEET**

\_\_\_\_\_  
Defendant

**Number of Mandatory Public Service Hours:**

**Name of Public Service Program:**

**Where to Report:**

**First Date to Report:**

**Special Instructions:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Today's Date	Time		Number of Hours Worked	Defendant's Initials	Supervising Official's Initials
	In	Out			

I \_\_\_\_\_ certify that the above information is correct and truthful; and that I fully understand the penalties applicable to me in the event that I misrepresent any of the above information to include; failure to **personally** appear as required and/or to misrepresent my appearance times(s). Please return completed form(s) to the court agency listed below.

\_\_\_\_\_  
Defendant Signature

\_\_\_\_\_  
Affirming Supervisor Signature

**QUALIFIED INTERPRETER TIME SHEET**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF \_\_\_\_\_ )  
 )  
 \_\_\_\_\_ )  
 Plaintiff )  
 )  
 vs. )  
 )  
 \_\_\_\_\_ )  
 Defendant )

IN THE COURT OF \_\_\_\_\_  
 \_\_\_\_\_ JUDICIAL CIRCUIT  
 No. \_\_\_\_\_  
 Deaf/Sign Language  
 Non-English speaking  
 \_\_\_\_\_  
 (Specify Language)

Date Service Rendered	Case Number	Start Time	End Time	Hours/Min. Interpreting
<b>TOTAL:</b>				

Date Services Completed: \_\_\_\_\_

I CERTIFY THAT THE INFORMATION GIVEN IS TRUE AND ACCURATE.

\_\_\_\_\_  
 Signature Of Interpreter

\_\_\_\_\_  
 Printed Name of Interpreter

NOTE: Original form or Certified True Copy only. Forms not in compliance will be returned.



STATE OF SOUTH CAROLINA

APPEAL

PLAINTIFF

-VERSUS-

DEFENDANT

TICKET #(S): \_\_\_\_\_

CHARGE(S): \_\_\_\_\_

I, \_\_\_\_\_, PLAINTIFF/DEFENDANT IN THIS CRIMINAL ACTION MAKE THE FOLLOWING CLAIM.

- 1. I BELIEVE THAT THE PLAINTIFF/DEFENDANT RESIDES IN AND IS WITHIN THE JURISDICTION OF THE COURT.
- 2. I MAKE THIS APPEAL BASED ON THE FOLLOWING ERRORS COMMITTED BY THE LOWER COURT:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 3. I BELIEVE, BECAUSE OF THE ABOVE INFORMATION, THAT I AM ENTITLED TO AND REQUEST:

\_\_\_\_\_

I STATE UNDER PENALTY OR PERJURY THAT THE ABOVE IS CORRECT AND TRUTHFUL.

DATE: \_\_\_\_\_

SIGNED: \_\_\_\_\_

ADDRESS OF PLAINTIFF:

ADDRESS OF DEFENDANT:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

BUSINESS TELEPHONE:

BUSINESS TELEPHONE:

HOME TELEPHONE:

HOME TELEPHONE:

\_\_\_\_\_

\_\_\_\_\_



**RESTITUTION AGREEMENT**

STATE OF SOUTH CAROLINA )  
COUNTY OF )  
TOWN OF )

IN THE MUNICIPAL COURT FOR

TICKET/WARRANT # \_\_\_\_\_ CHARGE: \_\_\_\_\_

I \_\_\_\_\_ DO HEREBY AGREE TO PAY THE RESTITUION FEE IN  
Print Name

IN THE AMOUNT OF \$ \_\_\_\_\_

IT SHALL BE PAID BY \_\_\_\_\_ BY 4:00PM  
Due Date

**PAYMENT SHALL BE IN THE FORM OF A MONEY ORDER MADE PAYABLE TO THE VICTIM AND BROUGHT TO THE MOUNT PLEASANT MUNICIPAL COURT.**

TO \_\_\_\_\_  
Victim's name

FROM \_\_\_\_\_  
Defendant's Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State Zip Code

\_\_\_\_\_  
City, State Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Telephone Number

MONEY ORDER # \_\_\_\_\_

RECEIVED BY \_\_\_\_\_

DATE: \_\_\_\_\_

TOWN OF MOUNT PLEASANT



**Municipal Court**  
100 Ann Edwards Lane  
P.O. Box 457  
Mount Pleasant, S.C. 29485  
843-884-8796 • Fax 843-856-2514

SCHOOL EXCUSE

To Whom It May Concern:

Please excuse \_\_\_\_\_ for being late to  
class or work.

He/ She appeared in the Mount Pleasant Municipal Court on

\_\_\_\_\_

From 8:30 AM, 9:30 AM, 10:00AM, 10:30AM OR 2:30PM-

\_\_\_\_\_

If you have any questions, please do not hesitate to call this office.

Sincerely,

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF \_\_\_\_\_ )  
 )

SEARCH WARRANT

Form Approved by  
SC Attorney General  
Section 19-13-160  
March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE  
MUNICIPALITY OF \_\_\_\_\_:

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON OR THING)  
TO BE SEARCHED

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

\_\_\_\_\_, South Carolina

\_\_\_\_\_  
Signature of Judge

Dated: \_\_\_\_\_ 20 \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT**

Personally appeared before me, one \_\_\_\_\_, who being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of S.C. Code Ann. § 17-13-140, as amended, is located on the following premises in this County:

**DESCRIPTION OF PROPERTY SOUGHT**

\_\_\_\_\_  
\_\_\_\_\_

**DESCRIPTION OF PREMISES (PERSON OR THING)  
TO BE SEARCHED**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PROPERTY SOUGHT IS ON THE SUBJECT PREMISES**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sworn to and Subscribed before me )  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ )

\_\_\_\_\_  
Signature of Judge )

\_\_\_\_\_  
Affiant

) Address \_\_\_\_\_

) Phone \_\_\_\_\_

**RETURN**

I received the attached Search Warrant \_\_\_\_\_, 20\_\_\_, and have executed it as follows:

On \_\_\_\_\_, 20\_\_\_ at \_\_\_ o'clock \_\_\_\_\_ M, I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with \_\_\_\_\_

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This inventory was made in the presence of \_\_\_\_\_ AND \_\_\_\_\_

I swear that the inventory is a true and detailed account of all the property taken by me on the warrant.

Sworn to and Subscribed before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_ )  
\_\_\_\_\_) )  
\_\_\_\_\_) )  
\_\_\_\_\_) )

Signature of Judge \_\_\_\_\_ ) (Signature of Officer Executing Warrant)  
\_\_\_\_\_ )  
\_\_\_\_\_ )

STATE OF SOUTH CAROLINA

County of \_\_\_\_\_

SEARCH WARRANT

Date \_\_\_\_\_

Officer \_\_\_\_\_



***Security Incident Reporting Log***

**1. Type of Event – act of violence, verbal threat, bomb, other (explain):**

**2. Date & Time of Event:**

**3. Reporting Personnel:**

**4. Details of the Incident:**

**5. How Resolved:**

**6. Security measures – equipment, actions, etc., that may have prevented or detected the incident.**

Number at which received: \_\_\_\_\_

Time: \_\_\_\_\_ Date: \_\_\_\_\_

Person receiving call (if not “reporting personnel”): \_\_\_\_\_

# TOWN OF MOUNT PLEASANT



**Municipal Court**  
 100 Ann Edwards Lane  
 P.O. Box 457  
 Mount Pleasant, SC 29465  
 (843) 884-6796 Fax: (843) 856-2514

SSN #: \_\_\_\_\_ Employment: \_\_\_\_\_  
 DL #: \_\_\_\_\_ Address: \_\_\_\_\_  
 Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_

TO: \_\_\_\_\_ DOB: \_\_\_\_\_ DATE: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 TICKET #: \_\_\_\_\_

On \_\_\_\_\_ You were found guilty of \_\_\_\_\_ and  
 fined \_\_\_\_\_ and/or \_\_\_\_\_ day(s) in jail, (fined \_\_\_\_\_ and/or \_\_\_\_\_ day(s) in jail),  
 (fined \_\_\_\_\_ and/or \_\_\_\_\_ day(s) in jail). Under the provisions of Section 17-25-350, Code of Laws,  
 State of South Carolina, this time payment schedule has been established for the payment of your fines(s) plus a  
**3% administrative fee** due on or before \_\_\_\_\_ at 4:00 p.m.

**TOTAL BALANCE DUE \$** \_\_\_\_\_

**Standard Time Payment for Fines Over \$500.00 requires a weekly Payment; if one Payment is missed will result in a Warrant being issued for your arrest for the balance. Weekly payment schedule:**

1 <sup>st</sup> payment/date: _____ / _____	2 <sup>nd</sup> payment/date: _____ / _____
3 <sup>rd</sup> payment/date: _____ / _____	4 <sup>th</sup> payment/date: _____ / _____
5 <sup>th</sup> payment/date: _____ / _____	6 <sup>th</sup> payment/date: _____ / _____
7 <sup>th</sup> payment/date: _____ / _____	8 <sup>th</sup> payment/date: _____ / _____

**I understand and fully accept the conditions of this time payment schedule.**

\_\_\_\_\_  
 Court Official (843) 884-6796

\_\_\_\_\_  
 Defendant

(Receipt Number)	(Date)	(Amount Paid)	(Balance)

By signing this application for a standard time Payment, the applicant agrees to pay all costs of collection of the applicant's unpaid bills. The Town of Mt. Pleasant has the right pursuant to the South Carolina Setoff Debt Collection Act to collect any sum due and owed by the applicant through offset of the applicant's state income tax refund. If the Town of Mt. Pleasant chooses to pursue debts owed by the applicant, the applicant agrees to pay all fees and cost incurred through the setoff process, including fees charged by the Department of Revenue, the South Carolina Association of Counties, The Municipal Association of South Carolina, and /or the Town of Mount Pleasant. If the Town of Mount Pleasant chooses to pursue debts in a manner other than setoff, the applicant agrees to pay the costs and fees associated with the selected manner as well. The information on this form is required in order to properly document and maintain accurate mailing information.

**Curtis M. Loftis, Jr. State Treasurer**  
**Post Office Box 11778**  
**Columbia, SC 29211 - 1778**  
**Phone (803) 734 - 2657 Fax (803) 734 - 2161**

Revised 01/12/2011

**SOUTH CAROLINA STATE TREASURER'S REVENUE REMITTANCE FORM**

Municipal Name \_\_\_\_\_ Municipal Code \_\_\_\_\_ Date Submitted \_\_\_\_\_

Collection for the Period form (Month/Year) \_\_\_\_\_ to (Month/Year) \_\_\_\_\_

PLEASE FILL IN THE AMOUNTS DUE TO THE STATE TREASURER IN THE TABLE BELOW:

LINE	FINES, FEES AND FILING FEE/ASSESSMENT	%	CODE	DUE STATE TREASURER	LINE
A	Public Defender Application Fee - \$40 Per Application	100%	17-3-30		A
B	Body Piercing	100%	44-32-120		B
C	Marriage License Fee - Additional \$ 20 Per License	100%	20-1-3 75		C
D	Bond Estreatment	25%	17-15-260		D
DA	Municipal Conditional Discharge Fee-\$150 (Effective 06-02-2010)	100%	44-53-450(C)		DA
	<b>DUI/DUS/BUI - ASSESSMENTS/SURCHARGES/ PULLOUT</b>				
E	Boating Under the Influence (BUI)	100%	50-21-114		E
F	Municipal DUS DPS Pullout -\$100	100%	56-1-460		F
G	Municipal DUI Assessment- \$12 Per Case	100%	56-5-2995		G
H	Municipal DUI Surcharge - \$100 Per Case	100%	14-1-211		H
I	Municipal DUI DPS Pullout- \$100	100%	56-5 -2940		I
IA	DUI/DUAC Breathalyzer Test Conviction Fee -SLED \$25	100%	56-5-2950(E)		IA
	<b>SURCHARGES</b>				
J	Municipal Drug Surcharge -\$150 Per Case (Effective 06-02-2010) \$100 Per Case (Before 06-02-2010)	100%	14-1-213(A)		J
K	Municipal Law Enforcement Surcharge - \$25 Per Case	100%	14-1-212(A)		K
KA	Municipal Criminal Justice Academy \$5 Surcharge	100%	FY11 PROVISIO 90.5		KA
	<b>OTHER ASSESSMENTS - STATE SHARE</b>				
L	Municipal- 107.5%	88.84%	14-1-208		L
LA	Municipal Traffic Education Program \$140 Application Fee	90.83%	17-22-350(C)		LA
M	<b>TOTAL REVENUE DUE TO STATE TREASURER</b>				M

PLEASE FILL IN THE AMOUNTS RETAINED BY YOUR OFFICE IN THE TABLE BELOW. THIS SECTION IS FOR REORTING PURPOSES ONLY. DO NOT REMIT THESE AMOUNTS TO THE STAE TREASURER.

LINE	RETAINED BY MUNI FOR VICTIM SERVICES	%	CODE	RETAINED BY MUNICIPALITY	LINE
N	Assessments-Municipal	11.16%	14-1-208		N
O	Surcharges-Municipal	100%	14-1-211		O
OA	Other Assessments-Municipal	9.17%	17-22-350(C)		OA
P	<b>TOTAL RETAINED FOR VICTIM SERVICES</b>				P

Comments: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

I, \_\_\_\_\_

, Municipal Treasurer, certify that the foregoing information is true and accurate.

\*Note: This report is required by law and must be filed monthly, on or before the 15th, by the MUNICIPAL TREASURER, even if there are no Collections. Please explain significant fluctuations in revenue in the "comments" section.

Print Form

Mail or Fax this form to the Office of State Treasurer and retain a copy for your records: Fax # 803.734.2161

## SUBPOENA IN A CRIMINAL CASE

SOUTH CAROLINA	COURT	COUNTY
V.		CASE NO.
		SUBPOENA FOR <input type="checkbox"/> PERSON <input type="checkbox"/> DOCUMENT(S) OR OBJECT(S)
TO:		
<input type="checkbox"/> YOU ARE HEREBY COMMANDED to appear in the above-named court at the place, date, and time specified below to testify in the above-entitled case.		
PLACE	COURTROOM	
	DATE AND TIME	
<input type="checkbox"/> YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s).		
LIST DOCUMENT(S) OR OBJECT(S)		
This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.		
CLERK OF COURT		DATE
(BY) DEPUTY CLERK		
THIS SUBPOENA IS ISSUED UPON APPLICATION OF THE:	ATTORNEY'S NAME AND ADDRESS	
<input type="checkbox"/> SOLICITOR <input type="checkbox"/> DEFENDANT		
SCCA 253 (JULY 1, 1993)		

**PROOF OF SERVICE**

<b>SERVED</b>	<b>DATE</b>	<b>PLACE</b>
<b>SERVED ON (PRINT NAME)</b>		<b>MANNER OF SERVICE</b>
<b>SERVED BY (PRINT NAME)</b>		<b>TITLE</b>

**DECLARATION OF SERVER**

I certify that the forgoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF SERVER

\_\_\_\_\_  
ADDRESS OF SERVER

\_\_\_\_\_

031996

## SUMMARY COURT RETENTION SCHEDULES

### DISPOSED COURT DOCKETS (CRIMINAL, CIVIL, TRAFFIC) SC-02

#### Description:

DISPOSED CRIMINAL DOCKET (SCCA FORM SCCA/502)  
DISPOSED CIVIL DOCKET (SCCA FORM SCCA/504)  
DISPOSED TRAFFIC DOCKET (SCCA FORM SCCA/506)

Documents cases listed for trial and disposed of in summary courts. Information includes defendant's name, plaintiff's name (if any), case number, charge, name of arresting officer, receipt number, money collected or refunded, disposition of case.

Retention: PERMANENT. Microfilm optional.

### CASE FILES (CRIMINAL AND TRAFFIC) SC-03

#### Description:

Summary court files for cases involving either traffic or criminal violations. Also included are bench trials by the judge without a jury. Information may include some of the following: warrant number, defendant name, address, charge, affidavit, booking report, accident report, statements of evidence, disposition, findings, sentence. This information is summarized in the court dockets.

Retention: DUI Cases: 10 years after disposition of case, then destroy.  
Non-DUI Traffic Cases: 5 years after disposition of case, then destroy.  
Criminal Non Traffic Cases: 15 years after disposition of case, then destroy.

### CIVIL CASE FILES SC-04

#### Description:

Magistrate's civil case files documenting civil cases heard. Information includes name and address of plaintiff and defendant, magistrate's name, case number, lawyer's name, date of hearing and disposition of the case. This information is summarized on civil dockets.

Retention: Claim and Delivery Cases: 3 years, then destroy.  
Eviction Cases: 1 year, then destroy.  
Other Cases: 10 years after date of judgement, then destroy.

### GENERAL SESSIONS FILES SC-05

#### Description:

Duplicate copies of summary court case files that are being transferred to General Sessions

Court. Files include copies of warrants and copies of bonds.

Retention: 3 years after disposition of case, then destroy.

## **CERTIFICATES OF TRANSMITTAL OF CRIMINAL CASES SC-06**

Description:

### **CERTIFICATES OF TRANSMITTAL (SCCA FORM SCCA/215)**

Documents the transmittal of criminal charging papers and related documents from the summary courts to the clerk of court. The clerk is responsible for verifying information and sending a copy of the record to South Carolina Court Administration where the information is used in monitoring the number of active arrest warrants on file in each clerk of court office. Information includes county, date, name, name and title of transmitting official, name of accused, date of arrest warrant or ticket number, whether dismissed at preliminary hearing, papers transmitted, date received in clerk's office, by whom received, date transmitted to solicitor, by whom received. This record is retained by Court Administration for a period of 7 years according to State Records Management Schedule SC-CA-14.

Retention: 2 years, then destroy.

## **CERTIFICATES OF TRANSMITTAL OF CIVIL CASES SC-07**

Description:

### **TRANSMITTAL FORM FOR DOCUMENTS IN CIVIL ACTIONS (SCCA FORM SCCA/518)**

Documents the transmittal of civil papers and related documents from the summary court to the clerk of court. The clerk is responsible for verifying information and sending a copy to South Carolina Court Administration where the information is used in monitoring the number of civil cases on file. Information includes county, date, name of case, filing date, service date, plaintiff claim, defendant claim, documents transmitted, date of receipt, by whom received.

Retention: 2 years, then destroy.

## **COURTROOM PROCEEDINGS-CASSETTE TAPES SC-08**

Description:

Recordings of actual court cases held by summary court and of General Sessions Court cases. Tapes of summary court cases are not transcribed unless an appeal is filed.

Retention: Preliminary Hearings Tapes: 3 years, then destroy/reuse.

Summary Court Trial Tapes: 60 days, then destroy/reuse.

## **APPEALS SC-09**

Description:

Documents an appeal to General Sessions by a defendant when he/she is not satisfied with the judgement made in the summary court. Information includes notice of intention to appeal, case name, statement of intent to appeal, date on which to appeal, defendant's signature, and address, and date.

Retention: 5 years after final judgement, then destroy.

**ARREST WARRANTS SC-10**Description:**ARREST WARRANTS (SCCA FORM SCCA/518 WHITE COPY)**

Original documents issued by the summary court judge or other competent authority addressed to a sheriff, police chief or other officer, requiring him to arrest the person named and bring him before the court to answer the charge(s) listed on the document. Information includes warrant number, defendant name, address, date, charge, affidavit, and disposition.

Retention: Warrants for DUI Offenses: 10 years after disposition of case, then destroy. Warrants for Other Traffic Offenses: 5 years after disposition of case, then destroy.

Warrants for Criminal Non Traffic Offenses: 15 years after disposition of case, then destroy.

**WARRANT STUB BOOKS SC-11**Description:**WARRANT STUB BOOKS (SCCA FORM NO NUMBER)**

Defunct stub books for warrants issued by the summary court judge. Information includes name, case number, date of offense, date of warrant, charge, law officer receiving warrant. This information is summarized on original arrest warrant and in the summary court dockets. Warrant stub books are no longer issued and will only be used until there are no more. These have been replaced by Warrant Duplicate Books.

Retention: 3 years after the return of the last warrant in the stub book, then destroy.

**WARRANT DUPLICATE BOOKS SC-12**Description:**ARREST WARRANTS (SCCA FORM SCCA/518 PINK COPY)**

Duplicate books for warrants issued by the summary court judge. Information includes name, case number, date of offense, date of warrant, charge, law officer



receiving warrant. These books replaced warrant stub books. This information is summarized on the original arrest warrant and in the summary court dockets.

Retention: 10 years after the return of the last warrant in the duplicate book, then destroy.

### **SEARCH WARRANT SC-13**

Description:

#### **SEARCH WARRANT (SCCA FORM SCCA/213)**

Original documents issued by the summary court judge or other competent authority addressed to a sheriff, police chief, or other officer, requiring the search and seizure of property for evidence. Information includes description of premises (person, place, or thing) to be searched, description of property, written inventory of all property seized pursuant to search warrant, date, and signatures of judge and of officer executing warrant.

Retention: 5 years after date of return, then destroy.

### **SEARCH WARRANT LOG BOOKS SC-14**

Description:

#### **SEARCH WARRANT LOG BOOKS (SCCA NO FORM NUMBER)**

Log book of search warrants issued by the summary courts. Information includes date, name, address, type of search warrant. The date of return of the warrant is recorded after the warrant is returned.

Retention: 5 years after last warrant is returned, then destroy.

### **UNIFORM TRAFFIC TICKETS SC-15**

Description:

#### **SOUTH CAROLINA STATE HIGHWAY PATROL UNIFORM TRAFFIC TICKETS (FORM 438)**

Record consists of the summary court's copies (green) of the traffic tickets used by all law enforcement agencies in the State. Information includes name of municipality; name, address, and driver's license number of person charged; description of vehicle; name of trial officer; offense; name of vehicle owner; name of arresting officer; conditions and location of offense; disposition of case; ticket number; and certification signature of police officer.

Retention: Tickets for DUI Offenses: 10 years after disposition of case, then destroy.

Tickets for Other Traffic Offenses: 5 years after disposition of case, then destroy.

Tickets for Criminal Non Traffic Offenses: 15 years after disposition of case, then destroy.

## **ALCOHOL AND BEVERAGE CONTROL COMMISSION SUMMONS AND ARREST REPORT SC-16**

### Description:

#### **OFFICIAL SUMMONS AND ARREST REPORT STATE OF SOUTH CAROLINA ALCOHOLIC BEVERAGE CONTROL COMMISSION**

Summons to appear before the trial officer for Alcohol and Beverage Control violations. Information includes name, address, name of trial officer, date and time of trial, nature of offense, place of arrest, description of accused, disposition, sentence.

Retention: Tickets for DUI Offenses: 10 years after disposition of case, then destroy.

Tickets for Other Traffic Offenses: 5 years after disposition of case, then destroy.

Tickets for Criminal Non Traffic Offenses: 15 years after disposition of case, then destroy.

## **OFFICIAL SUMMONS OF THE SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES SC-17**

### Description:

#### **SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES ARREST REPORT AND TRIAL SUMMONS**

Summons issued for Department of Natural Resources violations. Information includes name, social security number, address, judge's name, address, charge, code section number, bond posted, amount, conservation officer signature.

Retention: 5 years, then destroy.

## **DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL (DHEC) ARREST AND SUMMONS REPORT SC-18**

### Description:

#### **SOUTH CAROLINA DEPARTMENT OF HEALTH & ENVIRONMENT CONTROL ARREST REPORT & TRIAL SUMMONS**

Summons issued for DHEC violations. Information includes name, address, judge's name, address, date, charge, code section, location, bond posted, signature of environmental control officer.

Retention: 5 years, then destroy.

**JURY SUMMONS SC-19**Description:**JURY SUMMONS (SCCA FORM MC-35)**

Documents jury summons (jury venire) served by the sheriff, other authorized official, or by mail during the court term. Information includes name of county, court type, court term, and name of juror.

Retention: 3 years, then destroy.

**JURY VENIRE LIST SC-20**Description:**JURY VENIRE LIST (NO NUMBER)**

List of persons called for jury in summary courts. These lists may be computer generated. Information includes type of court, court term, name of juror, address, occupation, age, sex, race, voter registration number.

Retention: 3 years, then destroy.

**NON-RESIDENT VIOLATOR COMPACT FORM (NRVC) SC-21**Description:**NON-RESIDENT VIOLATOR COMPACT FORM (NRVC) (HIGHWAY DEPARTMENT FORM DL-53 PINK COPY ONLY)**

Form allowing a driver in South Carolina and in other states with member jurisdiction to proceed on his own recognizance following the issuance of the uniform traffic ticket except under certain conditions. Information includes citation number, date and time of violation, description of violation, drivers license number, state, date of birth, name and address, registration number, state, description of vehicle, name of court, mailing address, authorized by.

Retention: Summary Court Blue Copy: Until fine is received, then forward to defendant.

Summary Court Pink Copy: 10 years after fine is received, then destroy.

**NRVC LOG BOOK SC-22**Description:**NRVC LOG BOOK (NO FORM NUMBER)**

Alphabetical list of persons issued an NRVC with the date paid indicated.

Information includes name, address, citation number, date paid. This is used to confirm payment of fines if the driver does not submit his copy of the NRVC for reinstatement of his drivers license.

Retention: 10 years, then destroy.

### **BANKING RECORDS SC-23**

Description:

**(NO FORM NUMBER)**

Cancelled checks and deposit slips written by the county along with the statements issued by the bank. Information includes (1) checks: date, to whom paid, amount, check number, signature of finance officer; (2) bank statements: list of checks for one month period, dates, beginning balance, ending balance; and (3) deposit slips: date, amounts of deposits, and total deposit. Court order requires the retention of banking and financial records for 7 years from the date of issuance.

Retention: 7 years, then destroy.

### **RECEIPTS SC-24**

Description:

**MAGISTRATE'S RECEIPT (SCCA FORM (SCCA/517))**  
**MAGISTRATES (COMPUTER RECEIPT (NO FORM NUMBER))**  
**MUNICIPAL RECEIPT (NO FORM NUMBER)**

Copies of individual receipts issued to persons remitting funds to summary courts. These receipts are issued for payment of fines, filing fees, and other related purposes. Information includes date, number, from whom received, amount, and authorized signature.

Retention: 7 years, then destroy.

### **FINAL DISPOSITION REPORT SC-25**

Description:

**FINAL DISPOSITION REPORT (NO FORM NUMBER)**

Monthly report of the final disposition of cases. Information includes docket number, judge, CRN number, offender's name, address, identification, birth date, sex, race, officer 1, officer 2, offenses, and payments.

Retention: Until no longer needed for administrative purposes, then destroy.

### **MUNICIPAL COURT MONTHLY REPORTS SC-26**

Description:

**MUNICIPAL COURT MONTHLY REPORTS (SCCA FORM SCCA/608)**

S. C. Court Administration Form "Municipal Court's Monthly Report to the Administration of the Court" that is used by municipal courts to report their monthly activities. Form reflects the name and location of court and the reporting period. In addition, this form contains specific information on the number, type, status, and disposition of criminal and examining hearings. Form also contains information on the number and type of bail bonds set, number of arrest and search warrants issued and refused, number and type of counseling sessions held and number of Peace Bonds ordered.

Retention: 3 years, then destroy.

**CRIMINAL CASES MORE THAN 60 DAYS OLD SC-27**

Description:

**CRIMINAL CASES MORE THAN 60 DAYS OLD (SCCA FORM SCCA/609)**

S.C. Court Administration Form that is used by magistrate courts to report on criminal cases over 60 days old that are awaiting trial. Information includes name of judge, month, year, court, date warrant or ticket filed, name of defendant, warrant or ticket number, offense, reason for delay, scheduled trial date.

Retention: 3 years, then destroy.

**STATE FEE REPORTS SC-28**

Description:

**STATE FEES REPORT (COMPUTER REPORT NO NUMBER)**

Reports of state fees paid to the summary court to be sent to the State Treasurer. Information includes docket number, offense number, date of offense, Local Corrections Facility, Community Correction Assessment, S.C. Law Enforcement Training Fine less than or equal to \$99, S.C. Hall of Fame, Drug Assessment, Driving Under the Influence Testing, Littering, S.C. Law Enforcement Training greater than \$99, totals.

Retention: 3 years, then destroy.

**MONTHLY FINANCIAL REPORTS SC-29**

Description:

**MONTHLY FINANCIAL REPORTS (COMPUTER NO NUMBER)**

Monthly reports to the county or municipal treasurer of fees collected. Information includes ticket number, name, offense code, description, total fees, total fines, total collected.

Retention: 7 years, then destroy.

### **CIVIL MONTHLY DISTRIBUTION REPORTS SC-30**

Description:

#### **CIVIL MONTHLY DISTRIBUTION REPORTS (COMPUTER NO NUMBER)**

Monthly distribution report by magistrates to the county treasurer for civil cases disposed. Information includes case number, plaintiff name, defendant name, complaint, filing fee, type of case.

Retention: 3 years, then destroy.

### **LOCAL CORRECTIONAL FACILITIES TRANSMITTAL REPORT SC-31**

Description:

#### **MUNICIPAL COURT CERTIFICATE OF LCF TRANSMITTAL (NO FORM NUMBER ATTACHMENT F) MAGISTRATE COURT CERTIFICATE OF LCF TRANSMITTAL (NO FORM NUMBER ATTACHMENT F)**

Record of persons transmitted to local correctional facilities and the amount assessed reported to the treasurer for financial purposes. Information includes Moving Violations: to treasurer, from court, month, assessment times amount, total amount; Non-Moving Violations: number traffic/criminal, convictions, number times amount, total.

Retention: 3 years, then destroy.

### **SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY (SCDPS) TRANSMITTAL FORMS SC-32**

Description:

#### **SOUTH CAROLINA TRAFFIC CITATION AND DRIVERS LICENSE TRANS- MITTAL FORM (SCHP FORM DL 76-B)**

Forms used to transmit citations and/or drivers licenses to the SCDPS from the summary courts. Information includes issuing agency, transmitted to, by mail or in person, submitted by and date, received by and date, list of citations submitted, total number submitted, driver's name, drivers license number, date drivers license surrendered, number of drivers licenses attached, court and address of court, telephone number, date.

Retention: 3 years, then destroy.

### **BONDS TO FINES REPORT SC-33**

Description:**BONDS TO FINES REPORT (COMPUTER REPORT NO FORM NUMBER)**

Record of bond payments converted toward payments of fines. Information includes report date, period ending date, docket number, name, date, method of payment, bond to fine amount.

Retention: 3 years, then destroy.

**STATE LAW ENFORCEMENT DIVISION (SLED) MONTHLY REPORTS SC-34**Description:**STATE LAW ENFORCEMENT DIVISION (SLED) MONTHLY REPORTS**

Monthly reports from summary courts submitted to SLED for statistical reporting of crimes in the area. Information includes defendant's name, date of birth, sex, social security number, ticket number, warrant number, date of arrest, offense code, date of disposition, arresting agency, sentence.

Retention: 3 years, then destroy.

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY REPORTS SC-35**Description:**REMITTANCE FOR SOUTH CAROLINA LAW ENFORCEMENT TRAINING COUNCIL (CJA FORM CJA-1-70)**

Monthly reports from the summary courts to the Criminal Justice Academy. Information includes number of cases disposed, amount per case, contributions to the Criminal Justice Hall of Fame, contributions to the Law Enforcement Training Council.

Retention: 3 years, then destroy.

**SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES REPORTS SC-36**Description:**DEPARTMENT OF NATURAL RESOURCES (WL FORM SBS110-01)**

Monthly reports received from the Wildlife Department relating to the disposition of wildlife violations. Information includes summons number, defendant name, conviction date, type of summons, fine, amount paid.

Retention: 3 years, then destroy.