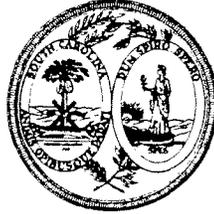


7057 Liberty



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

February 22, 2001

Shelton L. Hughes, Jr., Director
Clarendon County Correctional Center
Post Office Box 730
Manning, South Carolina 29102

**Re: Your Letter of December 14, 2000
Arrest and Processing Requirements for Persons Charged with Misdemeanors**

Dear Mr. Hughes:

In the above referenced letter, you have written this Office "...seeking facts or opinions regarding the processing (formal booking/fingerprinting) of persons who appear on what is referred to as 'Warrant Day' in my jurisdiction."

By way of background, you indicate that: "persons charged with [certain] misdemeanor offenses, are sent a letter from the Sheriff's office, directing them to appear at the law enforcement/correctional center to see a magistrate on a specific date. Those who comply have a bond hearing, and 99% are given a court date and are released on personal recognizance." You further indicate that "[a]nywhere from 20-65 or more persons may appear on any given date..." and that "[t]he man-hours it takes to book and fingerprint these individuals is significant."

In light of the above, you specifically ask "[i]s booking and fingerprinting mandatory (required) for those persons who are being released on there own recognizance for fraudulent checks and other misdemeanor-type offenses...?"

In South Carolina, the gathering of information upon the charging and arresting of a person for a criminal offense is a function of and is governed by statute. Chapter 3, Article 3 of Title 23 of the South Carolina Code establishes the "Criminal Information and Communication System." Section 23-3-120 provides that: "[a]ll law enforcement agencies and court officials shall report to the system all criminal data within their respective jurisdictions and such information related thereto at such times and in such form as the system through the State Law Enforcement Division [hereinafter referred to as SLED] may require..." Further, §23-3-130 provides that SLED is "authorized to determine the specific information to be supplied by the law-enforcement agencies and court officials pursuant to §23-3-120, and the methods by which such information shall be compiled, evaluated and disseminated." That Section of the Code also authorizes SLED "to promulgate rules and regulations to carry out" the collection of such information.

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Pursuant to §§23-3-120 & 130, SLED has promulgated regulations related to "Uniform Crime Reporting" and the arrest and booking process for persons charged with criminal offenses. With reference to your query, the following regulation, reprinted in pertinent part, is relevant:

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

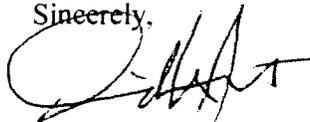
Arrest documents shall be of a standard type approved by SLED, commonly referred to as booking reports.

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

26 S.C.Code Ann.Reg. 73-30 (1976). As you can see, SLED requires certain information be obtained and forwarded to them in the form of standardized "booking reports." The "booking reports" are required in all cases "regardless of the degree of seriousness of the offense committed" or if the offender is "released on bail." Further, I am advised by agents with SLED's Uniform Crime Reporting Section that an integral and necessary part of the "booking report" is the fingerprinting of the subject and the return of the "fingerprinting card" to SLED. Accordingly, it is my opinion that booking and fingerprinting is "mandatory (required) for those persons who are being released on their own recognizance for fraudulent checks and other misdemeanor-type offenses." I would suggest that you contact SLED's Uniform Crime Reporting Section with any additional questions. It is my understanding that there may be some abbreviated "booking report" forms which may help alleviate your problem.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,



David K. Avant
Assistant Attorney General

DKA/an