

State of South Carolina



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BARRY J. BARNETTE

Solicitor, Seventh Judicial Circuit

TO: All Law Enforcement Officers and Agencies in the Seventh Judicial Circuit
(Cherokee and Spartanburg Counties)

FROM: Barry J. Barnette, Solicitor *BJB*

RE: Case Files, Discovery, and Rule 3.8 Information

DATE: October 18, 2023

Dear Sirs and Madams:

I need your help in reference to case file preparation and discovery for General Sessions Court in the Seventh Judicial Circuit. Our office needs copies of complete case files within thirty (30) days from the date of arrest in order to meet requirements set by the South Carolina Supreme Court's May 24, 2023 Order.

A complete case file should include, but is not limited to, the following items:

1. All Incident Reports (detailed as possible including all investigator notes) including names of all law enforcement involved and any other agency personnel on scene.
2. All Supplemental and Forensic Reports including but not limited to SWAT reports, Use of Force reports, K-9 reports, CAC reports, Coroner's reports, and any report related to the investigation of the case.
3. All Crime Scene Log reports.
4. All Evidence Sheets including all chain of custody information.
5. All pictures involving the victims and the defendants (i.e., showing appearance, clothing, injuries).
6. All pictures and videos of the crime scene(s) including any photos taken by officers (including officer assists from other LEO agencies) or witnesses on cell phones (agency-issued or personal), surveillance videos from stores or ATMs, and videos from nearby businesses or houses (i.e., "Ring" doorbells).
7. All videos or audio recordings involving the case (i.e., video statements of defendants, victims, and witnesses; in-car videos from patrol cars, BWCs) including DVDs, CDs, or thumb drives.
8. All BWC videos from every officer present at the scene and any BWC from officers that took statements from the defendants, victims, or witnesses.
9. In cases involving stolen goods (i.e., gun, vehicle), the original Incident Report where the item was reported stolen.
10. All lab submission forms or intake forms from SLED or other crime labs.
11. Any medical or lab records involving the case.
12. All statements by the defendant(s) – written and/or oral – including Miranda waivers.
13. All statements by victims and witnesses – written and/or oral – including their DOB, SSN, phone numbers, and complete addresses.
14. All photo line-ups and corresponding affidavits.
15. All 911 recordings and CAD sheets.
16. All reports of field-tested drugs (in drug cases) including all affidavits in the chain of custody.
17. All drug reports including all affidavits in the chain of custody (please send drugs for testing).

18. All implied consent forms, DataMaster test sheets, blood/urine collection forms, SLED intake forms (in Felony DUI and DUI cases – please take blood/urine samples for testing in timely manner).
19. All accident reports in Felony DUI / Reckless Homicide / DUI / Hit and Run / HTO cases.
20. All MAIT team or accident reconstruction reports in Felony DUI / Reckless Homicide / DUI / HTO / Failure to Stop with Death or GBI / Leaving the Scene with Death or GBI cases.
21. All driving records on defendants involving Felony DUI / Reckless Homicide / DUI / HTO / Failure to Stop / Leaving the Scene cases including any notice letters and certifications of mailings sent by the Department of Public Safety.
22. All victim information including VNI with complete addresses and phone numbers for victim and next of kin as well as any medical release forms from victims or suspects.
23. All Search Warrants with completed returns signed by the Magistrate Judge.
24. Any Consent to Search forms signed by the defendant and/or witnesses.
25. All reports received from other Law Enforcement agencies, Coroner's Office, SLED, other forensic labs (e.g. Greenville County), and any agency-assist reports or videos or BWC videos.
26. All cell phone information – including phone dump and Cellebrite information.
27. All On-Star, "black box", and vehicle GPS information.
28. Anything further involving the case.

The May 24, 2023 Order issued by the South Carolina Supreme Court must be complied with, was sent to all law enforcement in this circuit on June 1, 2023, and is attached here for your review. If the discovery requirement is not complied with, the case can be dismissed. We do not want the Court to dismiss a case based on discovery not being shared with the defense. Additionally, if our office does not receive a complete case file from law enforcement, we cannot be prepared as well as we need to be in order to try the matter.

Nothing herein is meant to deter your agency from a thorough investigation of each incident. If the investigation is ongoing after arrest or if new information comes to light after arrest, the new information must be sent to our office promptly but no later than ten (10) days from your receipt of the information. Law enforcement and prosecutors must turn over all evidence that shows the defendant is possibly not guilty of an alleged crime (exculpatory evidence). If exculpatory evidence is not given to the defendant with all of the other discoverable evidence, the case can be dismissed or the conviction can be overturned. Our office has a continuing duty to disclose any exculpatory evidence to the defense so it is essential we receive any new information promptly.

I realize State Law Enforcement Division (SLED) testing or testing by other agencies (Greenville) will probably not be done within the thirty (30) day period in the Order, but we need to show SLED has received the evidence for testing through SLED Intake Forms. Please make sure all evidence (DNA, GSR, firearms, cell phones, drugs, etc...) to be tested by SLED or Greenville is sent to them in a timely manner and forward any SLED case reports you receive to our office in a timely manner for the information to be shared with the defense attorney.

I have attached a draft Search Warrant form for getting DNA samples from suspects so testing of crime scene evidence by SLED can occur. SLED has asked us to get the suspect's DNA sample to them with the other evidence if possible. I recommend a Search Warrant be used prior to the arrest or at the arrest of the defendant.

Also, Rule 3.8 of the SC Rules of Professional Conduct details the Special Responsibilities of a Prosecutor. Rule 3.8 specifically includes that statements made by law enforcement on pending cases are affected by the Rules.

I appreciate your assistance on these matters and thank you and your officers for the hard work you do. If you have any questions or need any additional information, please contact me at 864-596-2575.

BJB: sop

Attachments: SC Supreme Court Order, Draft Search Warrant re: DNA Samples, Rule 3.8