

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
MAR 29 2024
SC Court of Appeals

Appeal from the Administrative Law Court
The Honorable H.W. Funderburk, Jr., Administrative Law Judge

Appellate Case No.: 2020-001473

JOSEPH KELSEY, #217218.....APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,.....RESPONDENT

**RETURN TO APPELLANT’S MOTION FOR
RULE TO SHOW CAUSE OR WRIT OF MANDAMUS**

Respondent hereby responds to Appellant’s Motion for a Rule to Show Cause or a Writ of Mandamus.

As an initial matter, Respondent notes it has been able to satisfy the requirements of this Court’s order by providing every inmate appearing before the Board since the Remittitur was issued by the Court of Appeals the opportunity to review his or her parole file. This includes the hearings heard on March 6, 2024, the day after the Remittitur was sent. Respondent respectfully submits that the Department and its staff should be *commended* for their herculean efforts to

comply with the Court's decision, and certainly not held in contempt as Movant would have this Court do.

Respondent submits that the issues brought up by the Movant demonstrate that he grossly overreaches in his interpretation of this Court's decision. Movant now apparently expects trial discovery-like access to not only the parole file prepared for and presented to the Board, but also to every scrap of information gathered, viewed, and possibly even discarded by the Department's investigators in their efforts to create the file. In his Motion, Movant clearly anticipates turning parole consideration hearings into contested case hearings, which is a process appearing nowhere in this Court's opinion.

Contrary to Movant's position, Respondent would again emphasize a key point recognized by this Court—that inmates *do not have the right to parole*.¹ An inmate only has the hope of parole, and loses nothing when the Board declines to give the gift of parole. This Court's opinion only gives inmates the opportunity to review their files so that they may inform the Board of any perceived errors or inaccuracies, and only recognizes this opportunity as implied by the Department's internal forms. Movant wildly exaggerates the holding when he tries to elevate the opportunity to view the files into a due process right. Due process is only required when the State takes away a constitutionally or statutorily recognized right or property interest. The Board takes nothing away from an inmate when it declines to grant parole.² Therefore, due process is at its lowest level at parole hearings and Movant should not be allowed to take this Court's limited

¹ *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 443 n. 4, 586 S.E.2d 124, 127 n. 4 (2003).

² "There is no constitutional or inherent right of a convicted person to be conditionally released before the expiration of a valid sentence." *Greenholtz v. Inmates of Nebraska Penal and Correctional Complex*, 442 U.S. 1, 7, 99 S.Ct. 2100, 2104 (1979).

holding and turn parole hearings into something they never were, nor should ever be: contested hearings or *de novo* trials over the underlying facts of settled convictions.

This Court's holding only allowed for inmates to view their files and report inaccuracies. The Department's Form 1212, the basis from which this Court's opinion is derived, states that the inmates may inform the Board of inaccuracies. The Department's new process fully allows for inmates to do so. Respondent would emphasize that this procedure is similar to Nebraska's parole process, which the U.S. Supreme Court determined satisfied due process. "At the Board's initial interview hearing, the inmate is permitted to appear before the Board and present letters and statements on his own behalf. He is thereby provided with an effective opportunity, first, to insure that the records before the Board are in fact the records relating to his case; and, second, to present any special considerations demonstrating why he is an appropriate candidate for parole. Since the decision is one that must be made largely on the basis of the inmate's files, this procedure adequately safeguards against serious risks of error and *thus satisfies due process.*" *Greenholtz*, 442 U.S. at 15 (emphasis added). Quite simply, due process does not require review of the parole files weeks or months in advance of the actual hearing.

For these reasons and the additional reasons outlined below, Respondent would therefore urge this Court to dismiss this Motion because he will be afforded the opportunity to review his file and report any perceived inaccuracies to the Board at his upcoming hearing.

- 1. Respondent has scheduled a new parole hearing for Movant/Appellant, and will be providing access to his parole file when preparation and appropriate redaction is completed.**

Movant evidently is outraged that Respondent has not yet provided him with access to his parole file for his upcoming hearing. However, the file is only complete approximately two weeks before the parole hearing and that complete file is subject to appropriate redaction – which takes

time and effort. Because of statutory requirements, hearings must be scheduled at least thirty days out. See S.C. Code § 24-21-221.

Respondent is perplexed by Movant's assertion that it has not yet provided him a parole hearing, given the statutory constraints regarding the scheduling of parole hearings. Respondent *has* set Movant's new hearing at the earliest available previously-scheduled day of hearings, which is set for **April 24, 2024**. Movant and his counsel will be provided with access to the parole file, but at the time of this filing, the file is not yet complete.

All parole files, even for those inmates who have previously appeared before the Board, are updated by Department staff before being submitted to the members of the Board for review in an effort to ensure the files are complete and up-to-date. Academic enrollment, program participation, and disciplinary notices are institutional records that could change rapidly. Providing the files to inmates or their attorneys months in advance would mean they are not seeing the version of the file the Board members will see when considering whether to grant parole. Certainly, parole files from past hearings are not relevant to upcoming hearings not yet heard; only the file going to the Board should be at issue. Indeed, Board members are not provided copies of past parole files.

The Department has limited staff, and that staff is diligently working on preparing for upcoming parole hearings. The Board hears an average of three thousand parole hearings every year. Each scheduled meeting of the Board presents roughly fifty-five cases on a day when inmates with violent convictions appear, and roughly sixty-five cases for non-violent hearing days. The Department quite simply does not have the staff resources to dredge up old parole files for hearings gone by, or to look months into the future when it is currently in the process of completing preparation of the parole files for the hundreds of parole hearings in the two to three weeks directly before it.

Notably, this Court's opinion has established no requisite timeline and certainly has not mandated that inmates receive copies of their files months in advance. Were this Court to grant Movant's request for a Writ of Mandamus and impose such a requirement, Respondent would endeavor to meet it, though it would mean that inmates would not be seeing the final version. Furthermore, it would also put Respondent at odds with its duties to keep secure criminal justice data, discussed *supra*.

2. As recognized by this Court, certain information included in the parole file is protected or privileged and subject to appropriate redaction; therefore, Respondent is in compliance with the Court's opinion in this case.

a. Respondent has an obligation to protect Criminal Justice Information.

Much of the data used in the creation of the parole files comes from the Criminal Justice Information Services Division (CJIS) of the Federal Bureau of Investigation (FBI), including Criminal History Record Information (CHRI) obtained through agreements with the South Carolina Law Enforcement Division (SLED). This data is restricted, and dissemination of this data is tightly controlled under Title 28, Part 20, Code of Federal Regulations, the FBI's CJIS Security Policy (CJISSECPOL v5.9.4, accessible on the FBI's website at https://www.fbi.gov/file-repository/cjis_security_policy_v5-9_20200601.pdf/view), and individualized agreements between the Department and SLED (Exhibit A). Importantly, Respondent must maintain adherence to strict security protocols to access and utilize CHRI in its ongoing operations as a law enforcement agency. Fundamental in remaining compliant with the rules and regulations of the CJIS is to limit access to the protected information.

Parole files include information on the inmates' criminal history, institutional record, actuarial risk and needs assessment per S.C. Code 24-21-10(F), gang affiliations, sex offender registry information, and other personal data on the inmate. Names of victims, witnesses, and law

enforcement investigators frequently appear throughout the summary of the offense. Respondent has agreed to comply with all applicable laws and regulations, *See* Exhibit A.

Not only is Movant requesting unfettered access to the parole files, but he is also demanding that inmates and their attorneys receive and retain copies of the files. Quite simply, Respondent cannot meet that request and remain in compliance with CJIS regulations. Consequently, Respondent is allowing for inmates and their attorneys to review the parole files in advance of the hearing, but not allowing them to have copies of the parole file. To hold otherwise would put Respondent at risk of having its access to CHRI withdrawn.³

Respondent is now utilizing secure drop-box style access for attorneys who are unable to attend the parole hearings with their clients. Those attorneys will be able to access the files securely for a limited time before the parole hearing.⁴

If inmates were to receive copies of the files, the Department would lose any control over the dissemination of the information listed within. Certainly, Movant would argue that the personal information belongs to the inmates, but the inmates themselves have limited control over their

³ “The exchange of criminal history record information authorized by paragraph (a) of this section is subject to cancellation if dissemination is made outside the receiving departments, related agencies, or service providers identified in paragraphs (a)(6) and (a)(7) of this section.” 28 CFR § 20.33(b). See also 28 CFR § 20.36(a) “In order to acquire and retain direct access to the [Interstate Identification Index] System, each Control Terminal Agency and Federal Service Coordinator shall execute a CJIS User Agreement (or its functional equivalent) with the Assistant Director in Charge of the CJIS Division, FBI, to abide by all present rules, policies, and procedures of the NCIC, as well as any rules, policies, and procedures hereinafter recommended by the CJIS Advisory Policy Board and adopted by the FBI Director.”

⁴ Movant references one attorney who was provided the parole file before the hearing. Respondent acknowledges that it did send a parole file to an attorney who was out of state and therefore unable to attend the hearing in person where he would have been able to view the file along with his client. Given the short time frame between the Remittitur and the hearing in question, Respondent improperly sent the parole file over an unsecured email. Respondent strongly urges this Court not to turn this singular error into the rule.

personal belongings, often sharing rooms and cells with multiple other inmates who may not be so concerned about protecting their private data.

Respondent does acknowledge that the CJIS Security Policy recognizes that criminal justice information “introduced into the court system pursuant to a judicial proceeding that can be released to the public via a public records request is not subject to the CJIS Security Policy.” CJISSECPOL v5.9.4, Section 4.1. However, Respondent submits that this Court’s limited holding did not make such a sweeping pronouncement that all inmates’ parole files are considered to have been released to the public, nor would this Court intend for its holding to be interpreted as such. Consequently, Respondent maintains that it has properly acted both within the holding of this Court while maintaining its important obligations to keep CJIS data secure.

Respondent would argue that Movant cannot have it all; he can either have the ability to keep and retain the full files with redactions to account for protected CJIS data, or limited access to unredacted files. Movant far oversteps in his demands.

b. All victims’ statements should be fully redacted to protect victim privacy.

Movant makes the claim that he and other inmates should be able to view victims’ statements, with only the names redacted – and then later argues that even the names of victims should not be redacted because victims may speak on the record at the open and public hearings before the Board. To the contrary, it is for the very reason that the Board meetings are open that it is imperative for victims’ written statements to remain shielded from the public’s eyes.

Many victims and their families are understandably traumatized by the crimes against them, and do not wish to be seen or heard addressing the Board in public for fear of reprisal by the inmate or those acting on the inmate’s behalf. Victim advocates working on behalf of the Department tell victims that by appearing and speaking to the Board, their statements are public

and that they will be recorded. Victims are warned that any public statement can be obtained by inmates at a later date. Obviously, many victims bravely appear before the Board regardless of that fact to address the Board. Others who cannot appear in person may choose to appear virtually, or have their statement read into the record. See S.C. Code 24-21-710. However, some victims are so fearful of the defendants that they do not want them to know they are opposing parole. They are thus given the opportunity to write statements to the Board that are part of the parole file but will not be placed orally into the record. In fact, victims are *assured* that their written statements will not be made public if they choose for them not to be.

Even striking victims' names and leaving the statements open for review would not be sufficient, because it would be the rare statement that would not allow the inmate – already intimately familiar with the crime – to deduce who is the author of the statement. Simply redacting the names is not sufficient if victims are to be protected.

Movant's demands, quite simply, trample over victims' rights to choose. The South Carolina Constitution grants victims numerous rights, including the right to "be treated with fairness, respect, and dignity, and to be free from harassment, or abuse, throughout the criminal and juvenile justice process," and to "be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process." S.C. Const. I, 24(A) (1) and (6). Were this Court to agree with Movant and give inmates access to victims' names and statements, it would create a chilling effect, silencing victims further and giving those who have already made statements another reason to be terrified.

This Court clearly allowed for victims to be protected by redacting information within the parole files, yet Movant argues that the "spirit" of the order requires those protections to be fully

cast aside. Respondent, in contrast, has adhered to the actual wording of the order, as well as the wording of the Constitution, and left those protections firmly in place.

3. Contrary to the assertions by Movant, this Court's ruling did not prohibit any possible or perceived inaccuracy from reaching the ears of the Board, especially when inaccuracies could come from any source, including the inmate.

Movant obviously decries any possible or perceived inaccuracy from ever reaching the Board without comment, when quite simply this is an impossibility and was never a parameter articulated by this Court. The Board must weigh numerous competing interests when considering an inmate for parole. Inmates desperate for parole are likely to embellish their institutional achievements, downplay any disciplinary infractions, and minimize the harm their offenses caused to victims. Victims traumatized by the actions of the inmates will discount or refuse to believe any efforts at rehabilitation and many will remain fearful for the rest of their lives. Inmates' supporters, too, may overestimate the community's willingness to see them returned to society, and attorneys representing inmates up for parole consideration are paid handsomely to present the facts in the light most advantageous to their clients.

The Board cannot be shielded from every embellishment, and every perceived inaccuracy. Movant refuses to acknowledge this reality, and instead appears to interpret this Court's ruling as giving them absolute say over the information presented to the Board, while clearly enjoying the unfettered ability to say whatever he wishes to the Board with no oversight.

Note that S.C. Code § 24-21-50 states that the "board shall grant hearings and permit arguments and appearances by counsel or any individual before it at any such hearing while considering a case for parole, pardon, or any other form of clemency provided for under law. No inmate has a right of confrontation at the hearing." The Code clearly does not elevate parole consideration into protracted trials or litigation over the facts of the offense. Inmates are

specifically not given the right of confrontation. All interested parties may present their cases for or against parole, and the Board may choose to grant or deny parole in its own discretion. “Undoubtedly, the Parole Board is the sole authority with respect to decisions regarding the grant or denial of parole.” *Cooper v. SCDPPPS*, 377 S.C. 489, 498, 661 S.E.2d 106, 111 (2008).

Hearing thousands of cases each year, the Board members are quite experienced at sifting through hyperbole and exaggeration. The Board knows to look to the facts as prepared for the parole file and presented by the Department, which is an executive branch agency committed to remain neutral and leave the decision of granting or denying parole to the Board. This Court’s ruling remedies the concern that the Department could make human errors in the creation of the parole files, but Movant instead reads the ruling as placing the Department into the role of an adverse party, for some reason portrayed as fighting against parole. However, the Department maintains neutrality, simply providing administrative duties for the Board much in the same way as clerks of court are neutral.

Respondent submits that Movant has wildly unrealistic expectations regarding this Court’s ruling. In reality, Respondent has numerous obligations to the Board, victims, South Carolina statutes, federal regulations, and the inmates themselves. Respondent submits that it has fully complied with this Court’s ruling while also factoring in these myriad obligations. Furthermore, because inmates do not have the right to parole, the ability for inmates to view their files should not be construed as tantamount to trial discovery rights. For all of the foregoing reasons, Respondent respectfully requests the Motion be denied.

Respectfully submitted,



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Columbia, South Carolina
March 27, 2024

EXHIBIT A

**South Carolina Law Enforcement Division
Criminal Justice Information System**



USER AGREEMENT AND SYSTEM RESPONSIBILITIES
SC Department of Probation, Parole, and Pardon Services

Introduction

The South Carolina Law Enforcement Division (SLED) Criminal Justice Information Services (CJIS) Division operates under a shared management concept between the South Carolina Law Enforcement Division (SLED), as the service provider, and criminal justice agencies, non-criminal justice agencies contracting to support certain functions for criminal justice agencies and other non-criminal justice agencies for licensing and employment purposes, as the service users, herein after referred to as "user agencies."

Criminal Justice Information Services (CJIS) User Agreement

The responsibility of the SLED CJIS Division is to provide up-to-date, reliable and quality identification and information services to user agencies.

The out-of-state data (originating outside of South Carolina) provided by the SLED CJIS Division are managed and exchanged in cooperation with the FBI CJIS Division and each state's CJIS Systems Agency (CSA). CJIS Systems include, but are not limited to: the Interstate Identification Index (III), National Crime Information Center (NCIC), National Incident-Based Reporting System (NIBRS), Fingerprint Identification Record System, Law Enforcement National Data Exchange (N-DEX), Law Enforcement Enterprise Portal (LEEP), and the National Instant Criminal Background Check System (NICS). In addition, information is routed from all the states, Canada, and certain federal agencies via the International Justice and Public Safety Network (Nlets).

The in-state data (originating within South Carolina) provided by the SLED CJIS Division are routed from and exchanged with source agencies in South Carolina. SLED CJIS Systems include, but are not limited to: the South Carolina Central Repository for Computerized Criminal History (CCH) Record Information, South Carolina Incident-Based Reporting System (SCIBRS), South Carolina Sex Offender Registry (SC SOR), and South Carolina Automated Fingerprint Identification System (SC AFIS). In addition, motor vehicle and motor vehicle operator information is routed from a database managed by the SC Department of Motor Vehicles (SCDMV).

In order to fulfill this responsibility, the SLED CJIS Division provides the following services to its users:

1. Operational, technical, and investigative assistance;
2. CSA and interface services for NCIC and Nlets;
3. South Carolina Sex Offender Registry;

4. Policy review of matter pertaining to all CJIS Systems;
5. Training assistance and up-to-date materials provided to each terminal agency coordinator (TAC), assistant terminal agency coordinator (ATAC), NCIC point of contact (POC), SOR POC, local agency security officer (LASO), and IT POC;
6. Ongoing assistance to System Users; and
7. System and data integrity auditing.

The following documents are incorporated by reference and made part of this agreement:

1. Bylaws for the CJIS Advisory Policy Board and Working Groups;
2. FBI CJIS Security Policy;
3. Interstate Identification Index Operational and Technical Manual, NCIC 2000 Operating Manual and related Technical and Operational Updates (TOUs), NCIC Code Manual, UCR Handbook-NIBRS Edition, National Incident-Based Reporting System Volumes 1-4, and NIBRS Technical Specifications;
4. National Crime Prevention and Privacy Compact, Title 42 United States Code § 14616;
5. NCIC Standards and UCR Standards, as recommended by the CJIS Advisory Policy Board;
6. Title 28, United States Code, Section 534;
7. Title 28, Code of Federal Regulations, Part 20, Part 25, §§ 16.30 – 16.34, §50.12, and Chapter IX;
8. Other relevant documents including, but not limited to: CJIS Information Letters; NICS User Manual, NICS Interface Control Document, NCIC Technical email updates and the SLED CJIS Newsletter;
9. Section 23-3-40 of the SC Code of Laws, Section 23-3-110 et seq. of the SC Code of Laws, Section 23-3-400 et seq. of the SC Code of Laws, SC Appropriations Act Proviso Part 1B Section 62D10. et seq., and Chapter 73 of the SC Regulations;
10. South Carolina Incident-Based Reporting System (SCIBRS) Training Manual; and
11. Other applicable federal and state laws, regulations, guides and forms.

By accepting access as set forth above, the user agency agrees to adhere to the following NCIC and SLED CJIS policies in order to ensure continuation of that access:

1. **Audit:** Each user agency shall be responsible for complying with the appropriate audit requirements.
2. **Dissemination:** All information released is done so in accordance with applicable laws and regulations, and a record of dissemination of criminal history records is maintained.
3. **Hit Confirmation:** Any agency which receives a record(s) in response to an NCIC inquiry must confirm the hit on any record(s) which appears to have been entered for the person or property inquired upon prior to taking any official actions based upon the hit NCIC record.

4. **Logging:** A log shall be maintained on all NCIC and III transactions as directed in the FBI CJIS Security Policy.
5. **Quality Assurance:** Appropriate and reasonable quality assurance procedures must be in place to ensure that the most complete, accurate, and valid entries are in NCIC.
6. **Screening (Pre-Employment):** To verify identification, a state of residence and national fingerprint-based record check shall be conducted within 30 days of assignment for all personnel who have direct access to CJI and those who have direct responsibility to configure and maintain computer system and networks with direct access to CJI.
7. **Security:** Each agency is responsible for appropriate security measures as applicable to physical security of terminals and telecommunications lines; applicable equipment shall be used for authorized purposes only; personnel security to meet background screening requirements; technical security to protect against unauthorized use; data security, dissemination and logging for audit purposes; and actual security of criminal history records. Additionally, each agency must establish an information security structure that provides for a LASO.
8. **Timeliness: (Availability, including priority of service):** Agency records must be entered, modified, cleared, and canceled promptly in NCIC to ensure maximum system effectiveness. Agencies that provide NCIC access to other agencies, such as through an interface or other process for non-terminal agencies, must ensure priority service for those agencies.


Fingerprints of custodial arrest subjects taken by a law enforcement agency to detention facility for state offenses must be submitted to SLED within three working days; wanted persons records meeting entry criteria (per NCIC 2000 Operating Manual) must be entered into NCIC immediately upon receipt of the arrest warrants by the law enforcement agency (not to exceed three days after receipt of the warrant); missing persons records pertaining to juveniles (under the age of 21, per FBI guidelines) must be entered within two hours of obtaining minimum identifying information to enter an NCIC record.

9. **Training:** Each agency will be responsible for complying with mandated training requirements as set forth by SLED CJIS.
10. **Parameters of Use:** According to any NCIC/state policies not specifically listed above:
 - a. The user agency will provide fingerprints for all custodial arrests made or brought by that agency, or ensure that they are provided, in turn, by another agency on behalf of the arresting or charging agency either via electronic submission or fingerprint card that meet submission criteria.
 - b. The user agency is responsible for the system access by that agency and any other agency that is, in turn, served by their agency.
 - c. Each user agency that is classified as a terminal agency is to have a Terminal Agency Coordinator (TAC) to ensure adherence to NCIC and SLED CJIS policies and procedures within the user agency. Each user agency classified as a non-terminal agency is to have a Point of Contact (POC) to ensure adherence to NCIC and SLED CJIS policies and procedures within the user agency.
 - d. The user agency will immediately report any misuse or improper dissemination of criminal justice information retrieved from the SLED CJIS network to the CJIS Systems Officer (CSO).
11. **Validation:** All records must be validated by the agency where the record originated as directed in the NCIC 2000 Operating Manual.

Acknowledgment and Certification

We hereby acknowledge the duties and responsibilities as set out in this agreement. We acknowledge that these duties and responsibilities have been developed and approved by CJIS System users in order to ensure the reliability, confidentiality, completeness, and accuracy of all information contained in or obtained by means of the FBI / SLED CJIS Systems. We further acknowledge that a failure to comply with these duties and responsibilities will subject our access to various sanctions as approved by the [FBI] Criminal Justice Information Services Advisory Policy Board. These sanctions may include the termination of NCIC services to the agency. We may appeal these sanctions through our CJIS Systems Agency.


SCDPPPS

Name of User Agency
293 Greystone Blvd
Address for User Agency
Columbia, SC 29210
Address (Continued)
SC040015G
ORI for User Agency
amanda.cooper@ppp.sc.gov
E-mail Address

Signature of Agency Head
Jerry B. Adger
Agency Head (Printed)
Director
Title/Date

SLED:

Mark A. Keel, Chief

BY:



Signature of CSO

CHARLES M. COOPER +

CSO (Printed)

MAT / 3/2/2020

Title/Date

Agencies Serviced By User Agency

<u>Serviced Agency Name</u>	<u>ORI Number</u>	<u>Signature of Serviced Agency Head</u>
<u>Serviced Agency Name</u>	<u>ORI Number</u>	<u>Signature of Serviced Agency Head</u>
<u>Serviced Agency Name</u>	<u>ORI Number</u>	<u>Signature of Serviced Agency Head</u>
<u>Serviced Agency Name</u>	<u>ORI Number</u>	<u>Signature of Serviced Agency Head</u>

Serviced Agency Addendum(s) with the above agencies must be on file with the user agency.

Revised 8/30/18

**South Carolina Law Enforcement Division
Criminal Justice Information System**



USER AGREEMENT AND SYSTEM RESPONSIBILITIES
SC PROBATION, PAROLE, & PARDON SERVICES

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3. South Carolina Sex Offender Registry;
4. Policy review of matters pertaining to all CJIS Systems;

5. Training assistance and up-to-date materials provided to each terminal agency coordinator (TAC), assistant terminal agency coordinator (ATAC), NCIC point of contact (POC), SOR POC, local agency security officer (LASO), and IT POC;
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1. Audit: Each user agency shall be responsible for complying with the appropriate audit requirements.
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5. **Quality Assurance:** Appropriate and reasonable quality assurance procedures must be in place to ensure that the most complete, accurate, and valid entries are in NCIC.
6. **Screening (Pre-Employment):** To verify identification, a state of residence and national fingerprint-based record check shall be conducted within 30 days of assignment for all personnel who have direct access to CJI and those who have direct responsibility to configure and maintain computer system and networks with direct access to CJI.
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9. **Training:** Each agency will be responsible for complying with mandated training requirements as set forth by SLED CJIS.
10. **Parameters of Use :** According to any NCIC/state policies not specifically listed above:
 - a. The user agency will provide fingerprints for all custodial arrests made or brought by that agency, or ensure that they are provided, in turn, by another agency on behalf of the arresting or charging agency either via electronic submission or fingerprint card that meet submission criteria.
 - b. The user agency is responsible for the system access by that agency and any other agency that is, in turn, served by their agency.
 - c. Each user agency that is classified as a terminal agency is to have a Terminal Agency Coordinator (TAC) to ensure adherence to NCIC and SLED CJIS policies and procedures within the user agency. Each user agency classified as a non-terminal agency is to have a Point of Contact (POC) to ensure adherence to NCIC and SLED CJIS policies and procedures within the user agency.
 - d. The user agency will immediately report any misuse or improper dissemination of criminal justice information retrieved from the SLED CJIS network to the CJIS Systems Officer (CSO).

11. Validation: All records must be validated by the agency where the record originated as directed in the NCIC 2000 Operating Manual.

Acknowledgment and Certification

We hereby acknowledge the duties and responsibilities as set out in this agreement. We acknowledge that these duties and responsibilities have been developed and approved by CJIS System users in order to ensure the reliability, confidentiality, completeness, and accuracy of all information contained in or obtained by means of the FBI / SLED CJIS Systems. We further acknowledge that a failure to comply with these duties and responsibilities will subject our access to various sanctions as approved by the [FBI] Criminal Justice Information Services Advisory Policy Board. These sanctions may include the termination of NCIC services to the agency. We may appeal these sanctions through our CJIS Systems Agency.


SCDPPPS
Name of User Agency

2221 Devine Street
Address for User Agency

Columbia, SC 29205
Address (Continued)

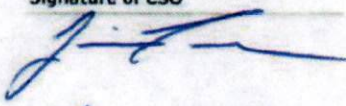
SEE ATTACHED LIST
ORI for User Agency

AMANDA.COOPER@DDP.SC.GOV
E-mail Address


Signature of User Agency Head
Director 3/29/16
Title/Date

SLED:
Mark A. Keel, Chief

BY

Signature of CSO


Mejer 4-17-16
Title/Date

Agencies Serviced By User Agency

Agency Name	ORI Number
Agency Name	ORI Number
Agency Name	ORI Number
Agency Name	ORI Number

Non-terminal User Agreement(s) with the above agencies must be on file with the user agency.

SCDPPPS Abbeville County	SC001015G	SCDPPPS Greenwood County	SC024015G
SCDPPPS Aiken County	SC002015G	SCDPPPS Hampton County	SC025015G
SCDPPPS Allendale County	SC003015G	SCDPPPS Horry County	SC026015G
SCDPPPS Anderson County	SC004015G	SCDPPPS Jasper County	SC027015G
SCDPPPS Bamberg County	SC005015G	SCDPPPS Kershaw County	SC028015G
SCDPPPS Barnwell County	SC006015G	SCDPPPS Lancaster County	SC029015G
SCDPPPS Beaufort County	SC007015G	SCDPPPS Laurens County	SC030015G
SCDPPPS Berkeley County	SC008015G	SCDPPPS Lee County	SC031015G
SCDPPPS Calhoun County	SC009015G	SCDPPPS Lexington County	SC032015G
SCDPPPS Charleston County	SC010015G	SCDPPPS McCormick County	SC033015G
SCDPPPS Cherokee County	SC011015G	SCDPPPS Marion County	SC034015G
SCDPPPS Chester County	SC012015G	SCDPPPS Marlboro County	SC035015G
SCDPPPS Chesterfield County	SC013015G	SCDPPPS Newberry County	SC036015G
SCDPPPS Clarendon County	SC014015G	SCDPPPS Oconee County	SC037015G
SCDPPPS Colleton County	SC015015G	SCDPPPS Orangeburg County	SC038015G
SCDPPPS Darlington County	SC016015G	SCDPPPS Pickens County	SC039015G
SCDPPPS Dillon County	SC017015G	SCDPPPS Richland County	SC040015G
SCDPPPS Dorchester County	SC018015G	SCDPPPS Saluda County	SC041015G
SCDPPPS Edgefield County	SC019015G	SCDPPPS Spartanburg County	SC042015G
SCDPPPS Fairfield County	SC020015G	SCDPPPS Sumter County	SC043015G
SCDPPPS Florence County	SC021015G	SCDPPPS Union County	SC044015G
SCDPPPS Georgetown County	SC022015G	SCDPPPS Williamsburg County	SC045015G
SCDPPPS Greenville County	SC023015G	SCDPPPS York County	SC046015G
SCDPPPS Central Office	SC040015G		

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

MAR 29 2024

SC Court of Appeals

Appeal from the Administrative Law Court
The Honorable H.W. Funderburk, Jr., Administrative Law Judge

Appellate Case No.: 2020-001473

JOSEPH KELSEY, #217218.....APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,.....RESPONDENT

CERTIFICATE OF SERVICE

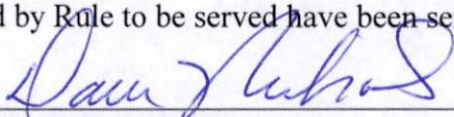
I, Dawn K. Nichols, Executive Assistant, hereby certify that I have served the within
Return to Appellant's Motion for Rule to Show Cause or a Writ of Mandamus on Appellant this
27th day of March, 2024, by depositing a copy of the same in the United States mail, postage
prepaid, addressed to:

Jon Ozmint, Esquire
PO Box 17554
Greenville, SC 29606

Allison Franz, Esquire
Rosalind Duval Major, Esquire
900 Elmwood Ave, Ste. 200
Columbia, SC 29201

John Blume, III, Esquire
Cornell Law School
112 Myron Taylor Hall
Ithaca, NY 14853

I further certify that all parties required by Rule to be served have been served.



Dawn K. Nichols
Executive Assistant
South Carolina Department of Probation,
Parole, and Pardon Services
P. O. Box 207
Columbia, South Carolina 29202

State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JODI GALLMAN
Acting Director

293 GREYSTONE BLVD
POST OFFICE BOX 207
COLUMBIA, SOUTH CAROLINA 29202
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.dppps.sc.gov/

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MAR 29 2024
SC Court of Appeals

March 27, 2024

The Honorable Jenny Kitchings
Clerk of the S.C. Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

Re: Joseph Kelsey v. SCDPPPS
20-001473

Dear Ms. Kitchings:

Please find enclosed the Respondent's Return to Appellant's Motion for Rule to Show Cause or a Writ of Mandamus, along with proof of service in the above referenced case.

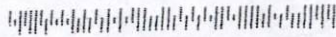
Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew C. Buchanan".

Matthew C. Buchanan
General Counsel

Enclosures

cc: Allison Franz, Esquire
Rosalind Duval Major, Esquire
John Blume, Esquire
Jon Ozmint, Esquire
Gerald Malloy, Esquire
Allison Elder, Esquire
Hannah Freedman, Esquire
Whitney Harrison, Esquire
Lindsey Vann, Esquire



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Department of Probation, Parole, and Pardon Services
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COLUMBIA, SOUTH CAROLINA 29202

RECEIVED
MAR 29 2024
SC Court of Appeals

The Honorable Jenny Kitchings
Clerk of the S.C. Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211