

GA-01.10, "Defense of Indigents," April 1, 2003

SCDC POLICY/PROCEDURE

NUMBER:GA-01.10

TITLE:DEFENSE OF INDIGENTS

ISSUE DATE: APRIL 1, 2003

RESPONSIBLE AUTHORITY:OFFICE OF GENERAL COUNSEL

OPERATIONS MANUAL:GENERAL ADMINISTRATION

SUPERSEDES: GA-01.10 (July 15, 1999)

RELEVANT SCDC FORMS/SUPPLIES: NONE

ACA/CAC STANDARDS: 4-ACRS-6A-02, 4-ACRS-7F-04, 3-4219, 3-4262

STATE/FEDERAL STATUTES:Defense of Indigents Act, South Carolina Code of Laws, Section 17-3-10 etseq., as amended, and South Carolina Appellate Court Rule 602.

PURPOSE: To establish guidelines to be followed by Agency employees in applying the rules of the South Carolina Supreme Court concerning the application of the Defense of Indigents Act to persons charged to the custody and control of the South Carolina Department of Corrections.

POLICY STATEMENT: The Agency is committed to promoting equitable treatment under the law for all inmates. To this end, the Agency will require that all SCDC employees abide by the directives set forth in this policy in compliance with the rules promulgated by the South Carolina Supreme Court for the implementation of the Defense of Indigents Act and the provision of procedural safeguards for such persons accused of a crime.

SPECIFIC PROCEDURES:

1. The first rule set forth by the South Carolina Supreme Court concerning the application of the Defense of Indigents Act is as follows: "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 s/he may be imprisoned, and every person charged with the violation of a probationary sentence shall be taken as soon as practicable before the Clerk of Court of General Sessions in the county where the charges are preferred, or such other officer or officers as may be designated by the resident judge of the circuit for the purpose of securing for the accused the right to counsel." (4-ACRS-6A-02, 4-ACRS-7F-04, 3-4219, 3-4262)

2. Other rules set forth by the South Carolina Supreme Court ensure that an arrested person is informed of the charges against him/her and of the nature of those charges; is advised of his/her rights to counsel and of his/her rights to appointed counsel in the event that s/he is indigent; and is assisted in his/her application for such counsel in the event that s/he so qualifies. (4-ACRS-6A-02, 3-4262)

3. The rules set forth by the South Carolina Supreme Court apply to SCDC inmates who have been arrested for escape or who are alleged to have committed some other crime while incarcerated which is within the jurisdiction of the Court of General Sessions, i.e., felonies and high misdemeanors. While the procedures are clear on their face, some confusion may arise in practice. Therefore, the following guidance is offered:

3.1 The site of the crime is of crucial importance in the implementation of this Act, inasmuch as it is in the county where the crime is committed that charges are preferred, and it is there that the person arrested or charged must be taken before the magistrate to proceed under these rules. It is preferred that the case be brought before the magistrate whose office lies in the district where the crime occurred, although a magistrate does enjoy county-wide authority.

3.2 The rules simply state that the individual will be taken "as soon as practicable" before the designated officer. The rule for "as soon as practicable" that this Agency will follow is that a person arrested or charged should be taken during normal working hours and before the end of the next working day following his/her arrest, charge, or return to the county. However, it is recommended that a prior check be made with the magistrate involved. Immediately after the inmates appearance before the magistrate, s/he will be returned to the institution to which s/he has been assigned.

4. DEFINITIONS: NONE

SIGNATURE ON FILE

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Jon E. Ozmint, Director

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