

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

4400 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA 29210



8.12.7 IMPLIED CONSENT – BREATH SITE VIDEO RECORDING

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| POLICY: 8.12.7 | DATE: MARCH 6, 2000 | REVISION DATE: FEBRUARY 10, 2009 |
| TITLE: IMPLIED CONSENT – BREATH SITE VIDEO RECORDING | | PAGE 1 OF 2 |

RESPONSIBLE AUTHORITY: DIRECTOR OF THE FORENSIC SERVICES LABORATORY

RELATED STANDARDS/STATUTES/REFERENCES: S.C. CODE OF LAWS, SECTIONS 56-1-286, 56-5-2930, 56-5-2945, 56-5-2950, 56-5-2953; CHAPTER 73 REGULATIONS

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GENERAL PURPOSE: To set forth policies for breath site video recording.

POLICY: The Division will approve and certify video recording systems for breath sites.

SPECIFIC PROCEDURES:

A. SYSTEM APPROVAL/CERTIFICATION

1. SLED will approve such methods for performing video recordings that are demonstrated to the satisfaction of SLED to produce quality and reliable reproductions. The only approved video recorder is The W.H. Platts Company's VDS-2. However, the VDS-2 will remain approved even if the manufacturer changes.
2. A SLED certified video recording specialist will certify each VDS-2 video recording system. For a video recording system whose testing station is a mobile van, once the video recording system is certified for use in the van, it remains certified regardless of the physical location of the van.
3. A certification record documenting the serial number, site location, date/time, and name of SLED certified video recording specialist will be completed and maintained by SLED. A record will be issued for each new site except when the system is moved to SLED or manufacturer's service

representative for inspection, repair, maintenance, or storage and later moved back to its original site. Certification records do not require the signature of the SLED video recording specialist, since the name is listed on the report. These records are maintained electronically by SLED for a minimum of five years.

4. A new certification is not required if a system component(s) is replaced, but is required if the entire system is replaced. A certification does not expire unless revoked by SLED.

B. SYSTEM INSPECTIONS

1. SLED certified video recording specialists and/or manufacturer's service representatives may inspect, repair, or maintain video recording systems. SLED will begin an on-site inspection on every certified VDS-2 at least once every twelve months and a report will be issued upon completion. The inspection may begin before twelve months has elapsed and not be completed until after the twelve-month period. Therefore, the time lapse between inspection reports may exceed twelve months.
2. After an inspection, an inspection record, with serial number, site location, date/time of completion, and name of SLED certified video recording specialist will be completed documenting the system is working properly. Inspection records do not require the signature of the SLED certified video recording specialist and/or manufacturer's service representative, since the name is listed on the report. These records are maintained electronically by SLED for a minimum of five years.
3. No system should be removed from its assigned site by an agency other than SLED and/or the manufacturer without first notifying the SLED Implied Consent Department and receiving approval.

C. SYSTEM MISCELLANEOUS

1. No operator certification or forms are required to operate a SLED certified video recording system; therefore, any officer may operate this equipment. In addition, any officer may advise the subject of video recording.
2. The SLED video recording system will produce a video recording of the breath test. The prosecutor/officer is the responsible party for granting access to a video. All requests for video access must be made through the prosecutor/officer. A prosecutor/officer may supply video access to a defense attorney/defendant, upon a valid legal request (i.e. discovery motion, court order).
3. The video recording systems may be used to comply with statutory requirements related to video recording. Additionally, these systems may be used to document breath tests not involving mandatory recording.

BY ORDER OF:



REGINALD I. LLOYD
DIRECTOR OF SLED