

1984 S.C. Op. Atty. Gen. 268 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-115, 1984 WL 159922

Office of the Attorney General

State of South Carolina

Opinion No. 84-115

September 24, 1984

*1 Ralph C. Freeman
Sheriff
Chesterfield County
Chesterfield, South Carolina 29709

Dear Sheriff Freeman:

In a letter to this Office you raised questions as to which pardons are to be added to the criminal history records maintained by the sheriff's department and whether any pardons require expungement.

All pardons granted in this State are granted by the State Probation, Parole, and Pardon Board. See: [Sections 24-21-910 et seq., Code of Laws of South Carolina, 1976](#); [1959 Op. Atty. Gen. No. 149, p. 300](#); [Article IV, Section 14 of the South Carolina Constitution](#). In a past opinion of the Office dated June 12, 1980, a copy of which is enclosed, the question was raised as to whether a pardon issued subsequent to a conviction would constitute a discharge or dismissal of a criminal proceeding for purposes of [Section 17-1-40, Code of Laws of South Carolina, 1976](#), the general expungement statute. The opinion states ' . . . a pardon rendered subsequent to a conviction will not constitute a discharge or dismissal of criminal proceedings under [Section 17-1-40](#) since the statute is concerned with the discharge of proceedings prior to final judgment, i.e., conviction or acquittal. . . . (A) pardon is not tantamount to an acquittal of the offense charged . . . It would not warrant the physical obliteration of the criminal record.

Referencing such, the granting of a pardon should not result in criminal records being expunged.

As to your remaining question as to whether a pardon should be included in a criminal history record, I am informed that SLED as a matter of course includes any grant of a pardon in the criminal history of an individual maintained by the agency. [SLED Regulation 73-21](#) states that '(d)ata stored in . . . the computerized criminal history data base will include personal identification data, as well as public record data concerning each of the individual major steps through the criminal justice process.' Inasmuch as the record of a pardon is included in the records of an individual maintained by SLED, the sheriff's department should similarly include pardons in criminal history records maintained by the department.

If there is anything further, please advise.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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