



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

October 1, 2001

Joseph Dawson, III, Esquire
Charleston County Attorney
4045 Bridge View Drive
North Charleston, South Carolina 29405-7464

**Re: Your Letter of September 19, 2001
Informal Opinion regarding the use of Victim Assessments Monies**

Dear Mr. Dawson:

In your above-referenced letter, you request an opinion from this Office on the following questions:

1. Can the Charleston County Sheriff's Office use monies collected from victim assessments pursuant to S.C. Code Ann. §14-1-207(D) to fund a satellite monitoring program for defendants charged with drug-related offenses?

If so,

2. Can the Charleston County's Bond Hearing Court properly use the satellite monitoring program as a condition of bond in compliance with the Home Detention Act and other applicable laws? See S.C. Code Ann. §24-13-1510, *et seq.*

As you cite in your letter, S.C. Code Ann. §14-1-207(D) provides:

The revenue retained by the county under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts. First priority must be given to those victims' assistance programs which are required by Article 15 of Title 16 and second priority must be given to programs which expand victims' services beyond those required by Article 15 of Title 16. All unused funds must be carried forward from year to year and used exclusively

Request Letter

Mr. Dawson
Page 2
October 1, 2001

for the provision of services for victims of crime. All unused funds must be separately identified in the governmental entity's adopted budget as funds unused and carried forward from previous years.

It is well recognized that public funds must be expended only for their designated purpose. The Attorney General has recently reviewed the language of Section 14-1-206(D), which is a verbatim match for §14-1-207(D). Upon his review, the Attorney General concluded that the "legislature has thus mandated that any expenditure from this fund must go exclusively to crime victims rather than for general law enforcement purposes"(Copy of Attorney General Condon's September 12, 2001, letter attached).

Article 15 of Title 16 contains the following relevant definitions:

"Victim" means any individual who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a criminal offense, as defined in this section. "Victim" also includes any individual's spouse, parent, child, or the lawful representative of a victim who is:

- (a) deceased;
- (b) a minor;
- (c) incompetent; or
- (d) physically or psychologically incapacitated.

"Criminal offense" means an offense against the person of an individual when physical or psychological harm occurs, or the property of an individual when the value of the property stolen or destroyed, or the cost of the damage to the property is in excess of one thousand dollars. This includes both common law and statutory offenses, the offenses contained in Sections 16-25-20, 16-25-30, 16-25-50, 56-5-1210, 56-5-2910, 56-5-2920, 56-5-2930, 56-5-2945, and the common law offense of attempt, punishable pursuant to Section 16-1-80 ...

While the program proposed clearly appears to be a worthwhile law enforcement endeavor, it does not appear to be consistent with the requirements of Section 14-1-207(D) that the funds "must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16" or "programs which expand victims' services beyond those required by Article 15 of Title 16." As the above-referenced definitions indicate, Article 15 of Title 16 applies to a specific group of persons who have been the victims of a specific group of crimes against the person or property. It is therefore my opinion that a satellite monitoring program for defendants charged with drug-related offenses is not for the "exclusive purpose of providing victim services" as required by law and could not be funded with monies collected from victim assessments pursuant to S.C. Code Ann. §14-1-207(D).

Mr. Dawson
Page 3
October 1, 2001

While perhaps unnecessary given the response to your first question, it is my opinion that the Charleston County Bond Hearing Court can use satellite monitoring as a condition of bond notwithstanding the provisions of S.C. Code Ann. §§24-13-1510, *et. Seq.* I have enclosed a copy of an opinion of today's date addressed to Charleston County Sheriff Al Cannon which more fully addresses this topic.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Avant", written over a horizontal line.

David K. Avant
Assistant Attorney General

Enclosures