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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

June 17, 1999

Tom O. Gainey
Chief Deputy
Darlington County Sheriff's Department
P.O. Box 783
Darlington, South Carolina 29540

RE: Informal Opinion

Dear Chief Deputy Gainey:

Attorney General Condon has forwarded your opinion request to me for reply. In your request, you state the following:

Section 30-4-50(8) of the South Carolina Code Ann. states that incident reports that disclose the nature, substance, and location of any crime or alleged crime reported as having been committed is public information. However, S 30-4-40(3) provides, in relevant part, that records of law enforcement and public safety agencies not otherwise available by law that were compiled in the process of detecting and investigation crime are exempt from disclosure if the disclosure of the information would harm the agency by ...(B) the premature release of information to be used in a prospective law enforcement action; ... or (D) by endangering the life, health, or property of any person.

1. Reading these two statutes together, must an agency delete suspect information from an incident report prior to releasing it if the investigation is ongoing, a warrant has not yet been issued, or the suspect has not been convicted?

Chief Deputy Gainey

Page 2

June 17, 1999

According to S 16-3-1520, prior to an arrest, law enforcement must provide a free copy of the incident report to the victim.

2. Does this section give a law enforcement agency the authority to release incident reports to victims without deleting suspect information?

In regards to your first question, the two Code sections cited in your letter do not, in and of themselves, require a law enforcement agency to delete suspect information from an incident report prior to releasing the report under the Freedom of Information Act. The fact that an investigation is ongoing, a warrant has not been issued, or the suspect has not been convicted would not alter this conclusion. However, the law enforcement agency would be required to determine on a case-by-case basis whether a particular incident report contains information that is exempt from disclosure pursuant to another provision of the Code. Further, Section 30-4-40(3) gives law enforcement agencies the discretion to exempt from disclosure materials which satisfy the requirements listed therein. As to your second question, incident reports are deemed to be public records and, thus, subject to disclosure by the Freedom of Information Act. Section 16-3-1520 was enacted, in part, to ensure that victims receive a copy of these reports.

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 questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch

Assistant Attorney General