

1983 S.C. Op. Atty. Gen. 139 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-85, 1983 WL 142754

Office of the Attorney General

State of South Carolina

Opinion No. 83-85

November 4, 1983

*1 Lieutenant Jerry Hamby
South Carolina Law Enforcement Division
Post Office Box 21398
Columbia, South Carolina 29221

Dear Lieutenant Hamby:

By Captain Gasque's letter of March 28, 1983, the South Carolina Law Enforcement Division inquired into the applicability of the South Carolina Freedom of Information Act to the disclosure of Supplementary Homicide Reports as well as the propriety of referring inquirers to the local law enforcement agencies for the same information. Based upon the following discussion, this office concludes that the Supplementary Homicide Reports should be disclosed under the South Carolina Freedom of Information Act.

The Supplementary Homicide Report, which is a listing of all homicides reported to the Uniform Crime Reports Department of the South Carolina Law Enforcement Division, consists of lists of data statistical in nature. These lists include the age, sex, race and origin of the victim and offender, the weapon used, the relationship of the victim to the offender, the circumstances surrounding the homicide, and the date. It is allegedly possible through the use of the date of the offense and the description of the offender to trace this data back to court records in the case and to the individual law enforcement agencies submitting the homicide data.

From a review of the Supplementary Homicide Report submitted to this office the Report appears to be statistical in nature. There is no information of a personal nature or information included in this document which would harm the South Carolina Law Enforcement Division by its disclosure. The information also is the same as that found in any incident report which, pursuant to [Section 30-4-50\(8\) of the Code of Laws of South Carolina \(1982 Cum. Supp.\)](#) (the Freedom of Information Act), must be disclosed.¹ Furthermore, [Section 30-4-30\(a\) of the Code](#) grants to any person the right to inspect or copy any public record in the possession of a public body. Thus, it is apparent that the Supplementary Homicide Report is subject to disclosure under South Carolina's Freedom of Information Act.

Captain Gasque's letter also stated that the South Carolina Law Enforcement Division has an agreement with local law enforcement agencies that all requests for agency-specific data will be referred to the agency housing the original incident report or arrest report. He asked whether it would be proper to first refer inquirers to the local law enforcement agencies instead of having the State Law Enforcement Division respond to the inquiry. There is no provision in the Freedom of Information Act for exemption from disclosure of otherwise disclosable information by one agency merely because the identical information is available from another agency. However, this policy has been addressed in a prior opinion dated September 7, 1978 (copy enclosed) and found to be appropriate for the reasons stated in that opinion. If the individual requesting the information is unable to obtain it from a local agency, then the State Law Enforcement Division should not rely upon any provision of the South Carolina Freedom of Information Act as a basis for denying the request.

*2 I hope that this information has satisfactorily answered your agency's inquiry. If you need further clarification, please contact me.

Sincerely,

Patricia D. Petway
Staff Attorney

Footnotes

- 1 Incident reports are specifically declared to be public information under the above-cited Code section but may be subject to exemption, at least in part, under [Sections 30-4-40\(2\)](#) or [30-4-50\(8\)](#). Those sections provide for exemption where public disclosure of information of a personal nature would constitute an unreasonable invasion of personal privacy or for deletion from an incident report of information exempt by law from disclosure.

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