

1983 S.C. Op. Atty. Gen. 68 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-46, 1983 WL 142717

Office of the Attorney General

State of South Carolina

Opinion No. 83-46

July 25, 1983

***1 RE: Discretion of Solicitor to Place Magistrate Court Cases in PTI**

Mr. Morgan Martin
Deputy Solicitor
Fifteenth Judicial Circuit
P. O. Box 1276
Conway, South Carolina 29526

Dear Morgan:

Attorney General Medlock has referred your letter dated July 13, 1983, to me for reply.

You presented a question relating to prosecutorial discretion in the placing of defendants into the Pre-Trial Intervention Program. It appears that in your specific situation, one police department in Horry County has asked your office to observe a 'standing no' on all City Recorder cases as to defendants therein being placed in PTI.

An examination of the PTI statute, [Section 17-22-10, et seq., Code of Laws of South Carolina \(1976\)](#), as amended, and the statutory and common law discretion of the Solicitor in this State, leads me to agree with you that the Solicitor has absolute and final discretion regarding individuals placed into the PTI Program. That discretion is, of course, limited by the provisions of Section 17-22-50, which excludes individuals charged with specific offenses.

Section 17-22-80 requires written input from the victim of the crime, if any, and the law enforcement agency employing the officer. However, the Solicitor is only required to consider the recommendations of the law enforcement agency and the victim, if any, in making a decision.

In conclusion then, subject to the provisions of Section 17-22-50, it would appear that the final discretion regarding whether or not a defendant enters the PTI Program, rests with the Solicitor.

If any further information is needed, please do not hesitate to contact this Office.

Sincerely yours,

James G. Bogle
Assistant Attorney General

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