

1975 S.C. Op. Atty. Gen. 75 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4005, 1975 WL 22303

Office of the Attorney General

State of South Carolina

Opinion No. 4005

March 25, 1975

***1 Re: Your File No. 902**

Honorable William A. Dallis
Director
South Carolina Court Administration
South Carolina Supreme Court
Post Office Box 11788
Columbia, South Carolina 29211

Dear Mr. Dallis:

Thank you for your letter of March 17, 1975, inquiring as follows:

1. By what authority does the Attorney General issue official opinions?

The authority for this is provided by statute which directs the Attorney General to give his opinion upon questions of law submitted to him by the Governor, Members of the General Assembly, various Constitutional Officers, or any other State officer or the Public Service Commission. He is required also to represent and advise with many State boards, commissions and agencies which necessarily carries with it the authority to issue opinions on matters concerning those bodies.

2. Does any person other than the Attorney General have the authority to issue an official opinion?

Opinions are not designated as official, advisory or otherwise. At one time, this method of identification was followed but it proved impractical. Consequently, there is no precise meaning of the phrase 'official opinion.'

An opinion from the Office of the Attorney General issued by me as Attorney General, or by a designated Assistant, is necessarily the opinion of this Office, whether it be classified as official or otherwise. The opinions, therefore, should be properly referred to as 'opinions of the Attorney General.' Necessarily, because of the vast demands made upon this Office, the Attorney General cannot personally respond to opinions in each instance; this must be delegated to Assistants whom he is authorized to employ.

If the question is directed to the Office of the Attorney General, the answer is that only the Office of the Attorney General can issue an opinion for that Office.

3. Is there any sanction, penalty or liability incurred by a judge who knowingly performs judicial functions contrary to an official opinion of the Attorney General?

The answer to this question is no.

4. Are official opinions of the Attorney General provided to judges of magistrate and municipal courts as an indulgence or privilege, or are they a matter of right for such judges?

The Attorney General is not required to advise members of the judiciary. Some official connection exists within recent years by virtue of the designation of an Assistant Attorney General to aid magistrates. Additionally, the practice has been followed as far back as 1920, apparently being emphasized at least as far back as that date by former Attorney General John M. Daniel, who himself was a magistrate of Greenville County prior to becoming Attorney General.

5. What procedure exists for the prompt publication and distribution of official opinions of the Attorney General?

This has been a problem area for a number of years, just as the prompt release of statutes enacted by the General Assembly has been a difficult and as yet unsolved problem. The shortage of personnel and the unavailability of funds is the prime obstacle, plus the difficulty of ascertaining which opinions may be of widespread interest. Our present plans are to release at least a summary of various opinions monthly and to have such opinions available upon request for them by members of the public. The second procedure now being considered is to touch upon these recent opinions at monthly press meetings but this, on previous trial, did not prove effective. The answer to your question is that there is no procedure devised now for the prompt release and publication of official opinions. They are required to be released at least annually but it will be helpful if and when a means of prompt release can be provided.

*2 With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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