

1220 Liberty



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLIE CONDON  
ATTORNEY GENERAL

November 28, 2001

Lt. Michael Frank  
ACSO Public Information/Special Projects  
Aiken County Sheriff's Office  
420 Hampton Avenue, NE  
Aiken, South Carolina 29801

**RE: South Carolina's Freedom of Information Act**

Dear Lt. Frank:

In a letter to this Office, you ask certain questions related to the scope of South Carolina's Freedom of Information Act. Specifically, you present the following:

Does the physical act of "asking" to view incident reports amount to "a request pursuant to this chapter"? If so, does the agency have the authority to deny access to these incident reports if it deems the information contained therein will be used for commercial solicitation?

By way of background, you indicate that "... representatives of home security companies routinely review incident reports at the Aiken County Sheriff's Office. The agency has received an increasing number of complaints from citizens who said they were contacted by these businesses, which solicited home security systems. These contacts generally occurred within a few days after the victims reported a crime to ACSO."

As you point out in your letter, S.C. Code Ann. §30-4-30(d) "no longer requires the requestor to make a written request to inspect or copy the records when the requestor appears in person." Specifically, Section 30-4-30(d) provides that:

The following records of a public body must be made available for public inspection and copying during the hours of operations of the public body without the requestor being required to make a written request to inspect or copy the records when the requestor appears in person:

- (1) minutes of the meetings of the public body for the preceding six months;

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- (2) all reports identified in Section 30-4-50(A)(8) for at least the fourteen-day period before the current day [i.e. incident reports] (emphasis added); and
- (3) documents identifying persons confined in any jail, detention center, or prison for the preceding three months.

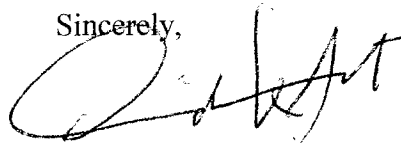
Accordingly, as long as the request is made during the hours of operation of the public body, a verbal request would be sufficient to allow a requestor to inspect and copy documents covered by Section 30-4-30(d)(2).

Further as you point out in your letter, Section 30-4-50(B) provides that “[n]o information contained in a police incident report .... revealed in response to a request pursuant to this chapter may be utilized for commercial solicitation.” Section 30-4-50(B) also provides, however, that “this provision must not be interpreted to restrict access by the public and press to information contained in public records.” Accordingly, it is my opinion that a public agency may not “deny access to .... incident reports if it deems the information contained therein will be used for commercial solicitation.”

My opinion, however, does not leave an agency without recourse for the situation you describe. The provisions of Section 30-4-30(d)(2) do not necessarily require the victim’s name and exact address be included in the information provided. Section 30-4-50(A)(8) relates only to “reports which disclose the nature, substance, and location of any crime or alleged crime reported as having been committed.” Further, that subsection provides that “[w]here a report contains information exempt as otherwise provided by law, the law enforcement agency may delete that information from the report.” Moreover, for wilful violations, injunctive relief can be sought pursuant to Section 30-4-100 and criminal sanctions sought pursuant to Section 30-4-110.

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,



David K. Avant  
Assistant Attorney General

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