

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE 803-758-3970

February 13, 1986

J. Stanley Bird, Chief of Police  
City of Myrtle Beach  
1101 Oak Street  
Myrtle Beach, South Carolina 29577

Dear Chief Bird:

In a letter to this Office you questioned whether accident reports prepared and filed by law enforcement officers are confidential.

Section 56-5-1270 of the Code, as amended, provides that

(t)he operator or owner of a motor vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of two hundred dollars or more which was not investigated by a law enforcement officer shall, within fifteen days after such accident, forward a written report ... to the Department ... Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident ... shall, within twenty-four hours after completing such investigation, forward a written report of such accident to the Department....

Section 56-5-1340 of the Code, as amended, provides in part:

(a)11 accident reports made by persons involved in accidents shall be without prejudice to the individual so reporting and shall be for the confidential use of the Department.... No such report shall be used as evidence in any trial, civil or criminal, arising out of an accident.... (Emphasis added.)

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Furthermore, Section 56-5-1360 of the Codes states:

(a)ny incorporated city or town may by ordinance require that the driver of a vehicle involved in an accident shall also file with a designated city department a report of such accident or a copy of any report herein required to be filed with the Department. All such reports shall be for the confidential use of the city department and subject to the provisions of Section 56-5-1340. 1/ (Emphasis added.)

Referencing the above provisions, it appears that the confidentiality requirements of Sections 56-5-1340 and 56-5-1360 should be construed as being applicable only to accident reports made by individuals involved in an accident. Such confidentiality requirements would be inapplicable to those reports filed by law enforcement officers. This construction is consistent with the rule that where the language of a statute is clear and unambiguous, it should be applied literally. State v. Goolsby, 278 S.C. 52, 292 S.E.2d 180 (1982). Moreover, absent ambiguity, a statute must be applied according to the clear meaning of its language. Boyd v. State Farm, 260 S.C. 316, 195 S.E.2d 706 (1973).

The determination that the accident reports filed by a law enforcement officer pursuant to Section 56-5-1270 are not confidential is also consistent with provisions of this State's Freedom of Information Act, Sections 30-4-10 et seq. of the Code. Pursuant to Section 30-4-50(8), "incident reports which disclose the nature, substance, and location of any crime or alleged crime reported as having been committed" are declared public information. Also, individuals at the Department of Highways and Public Transportation have indicated to me that any accident reports filed with their agency by law enforcement officers are available to the public upon payment of a three dollar fee.

In responding to your question, review was made of the decision of the South Carolina Supreme Court in Marshall v. Thomason, 241 S.C. 84, 127 S.E.2d 177 (1962). In Marshall, the Court referred to the predecessor statutes of Sections 56-5-1270 and 56-5-1340, Sections 46-327 and 46-333 of the 1962 Code, in

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1/ I am assuming that the City of Myrtle Beach does not have any ordinance which would require that the reports filed by law enforcement officers be kept confidential. You should contact the city attorney as to the existence of any city ordinances relevant to the question you have raised.

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noting that certain required reports were confidential. However, a careful review of the Court's decision indicates that the Court was only referring to reports made by individuals involved in an accident.

Reference has also been made to a previous opinion of this Office, 1973 Opinion of the Attorney General No. 3490 at page 80, which states that reports of automobile accidents filed in city police departments are confidential and may not be disclosed. In making such determination, former Sections 46-333 and 46-335 of the 1962 Code of Laws were cited. However, again, such sections referred only to accident reports made by "persons involved in accidents" (Section 46-333) and reports required to be filed by "the driver of a vehicle involved in an accident" (Section 46-335). Therefore, the opinion does not support any argument that reports filed by law enforcement officers should be considered to be confidential.

If there is anything further, please advise.

Sincerely,



Charles H. Richardson  
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions