



ALAN WILSON
ATTORNEY GENERAL

October 14, 2024

The Honorable Matthew R. Mulholland
Ministerial Recorder
City of Greer
100 South Main Street
Greer, South Carolina 29651

Dear Judge Mulholland:

We received your request for an opinion of this Office concerning the use of search warrant forms differing from the one approved by our Office. In your request, you informed us that some law enforcement officers are not using SCCA 513, the search warrant form provided by Court Administration and approved by our Office. Thus, you question "whether a search warrant issued in a form, type, or format other than that approved by your office . . . maintains facial validity if it sufficiently meets the particularity requirement and is supported by probable cause under oath."

Law/Analysis

As you reference in your letter, section 17-13-160 of the South Carolina Code (2014) provides as follows:

Notwithstanding any other provision of law, effective September 1, 1975, all arrest warrants and search warrants issued by the State or any political subdivision thereof shall be in a form as prescribed by the Attorney General and the Attorney General's office shall prescribe such forms to all law enforcement agencies.

Clearly, section 17-13-160 mandates law enforcement only use search warrant forms approved by our Office. SCCA 513, maintained by South Carolina Court Administration, is the search warrant form approved by our Office and therefore must be used pursuant to section 17-13-160. Nonetheless, we issued an opinion in 1998 discussing section 17-13-160 related to the use of computer software generated search warrants instead of the standard form. Op. Att'y Gen., 1998 WL 317571 (S.C.A.G. May 1, 1998). In that opinion, we stated:

[I]t is perfectly acceptable for a police department to create its own search warrants, provided that such warrants contain all of the information required on the standard forms approved by this office. So long as the independently created warrants follow the form and substance of the standard forms to the letter, there

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need not be any direct authorization by this office. If the form or substance of the independently created warrant deviates from the standard in any manner, such warrants are in violation of S.C. Code Section 17-13-160.

Id. “This Office recognizes a long-standing rule that we will not overrule a prior opinion unless it is clearly erroneous or a change occurred in the applicable law.” Op. Att’y Gen., 2009 WL 959641 (S.C.A.G. Mar. 4, 2009). Finding no changes in the law since our 1998 opinion, we continue to find local law enforcement can create their own search warrant form, but the form must follow the form and substance of SCCA 513 to the letter. Any warrant that does not violates section 17-13-160.

Conclusion

Section 17-13-160 of the South Carolina Code requires all search warrants issued by the State or any political subdivision to be in the form approved by this Office. This Office approved SCCA 513 maintained by Court Administration and therefore, it must be used for search warrants. We have interpreted section 17-13-160 to allow law enforcement to independently create warrants so long as they do not deviate in form or substance from SCCA 513 in any manner. Any deviation in form or substance to SCCA 513 likely violates section 17-13-160.

Sincerely,



Cydney Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General