



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

May 15, 2001

The Honorable Harry M. Hallman, Jr.
Mayor, Town of Mount Pleasant
P.O. Box 745
Mount Pleasant, South Carolina 29465

Re: Your Letter of February 27, 2001
Dissemination of Sex Offender Registry Information

Dear Mayor Hallman:

In your above referenced letter, you have requested a legal opinion from this Office concerning dissemination of information related to persons required to register pursuant to S.C. Code Ann. §23-3-400 et seq. (Sex offender registry). By way of background, you indicate:

We have an individual in Mount Pleasant who is on the sexual predator list for a crime committed against a young person ten years ago. He presently lives next door to one of our ball fields and has, within the last week, been charged with molesting and eleven-year-old girl.

As we understand the State law, someone can call the Sheriff's Department and ask if a person is on the sexual predator log or they can go to the internet and get this information. We are of the opinion that our Police officials need the ability to go into the neighborhood and alert neighbors that this type individual is amongst them.

Specifically, you request "advice in the form of a legal opinion and if we can't do this under present law..." request the help of this Office in amending the existing statute.

As you know, South Carolina's sex offender registry requires individuals convicted of certain crimes to register with the Sheriff of the county in which that person resides. As a general matter, information collected pursuant to the registry is manifestly public. See S.C. Code Ann. §23-3-490.¹ The law requires the Sheriff to release such information to members of the public upon written

¹ Information concerning juveniles adjudicated delinquent for certain offenses is subject to certain restrictions contained in §23-3-490(D)(1)-(4).

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request and requires the Sheriff to "provide to a newspaper of general circulation within the county a listing of the registry for publication." As you have noted, the information can also be accessed by the general public via the internet. Consistent with an intent that the registry be public in nature, the General Assembly has provided in §23-3-490(C) as follows:

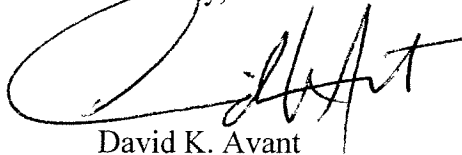
Nothing in subsection [23-3-490] (A) prohibits a sheriff from disseminating information contained in subsection [23-3-490](A) regarding persons who are required to register under this article if the sheriff or another law enforcement officer has reason to believe the release of this information will deter criminal activity or enhance public safety ...

Further, the act provides immunity, absent gross negligence, for public officials, employees, agencies, etc. for "any act or omission under [the sex offender registry act]" and also states that "[n]othing in this section may be construed to mean that information regarding persons on the sex offender registry is confidential except as otherwise provided by law." S.C. Code Ann. §23-3-520(C).

Accordingly, it is apparent that the language of the sex offender registry act itself provides law enforcement the ability to disseminate information in certain circumstances as a preventative measure. It would appear that the circumstance you describe in your letter would give rise to a reasonable belief that disseminating the appropriate information would "enhance public safety." I suggest that you contact your City Attorney, Police Chief and the Sheriff for the purpose of establishing a policy regarding dissemination of information in such cases.²

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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² Courts have found constitutional the public release of sex offender information where necessary for public protection. See Russell v. Gregoire, 124 F.3d 1079 (9th Cir. 1997); But See State v. Myers, 923 P.2d 1024 (Kan. 1996); and Rowe v. Burton, 884 F.Supp. 1372 (Alaska 1994)(excessive and unrestricted disclosures, not necessary for public protection, trigger constitutional protections for persons required to register)