



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

February 26, 1996

Ptl. Jerry Ginn
Walterboro Police Department
Post Office Box 709
Walterboro, South Carolina 29488

Re: Informal Opinion

Dear Ptl. Ginn:

You have asked for advice on the following situation:

[t]his is in reference to 16-17-725, false information to a police officer. I am interested in your opinion, due to the fact that our judge dismisses cases on the basis that this statute is for written documents and that a person can tell a law enforcement officer anything they want to about themselves. The situation usually evolves from a traffic stop where the driver of the vehicle gives the officer someone else's name or a fictitious name. The officer then makes an arrest or issues a citation to later find that the person in question gave the wrong name and was not who he said he was.

S.C. Code Ann. Sec. 16-17-725 provides in pertinent part as follows:

[i]t is unlawful for any person to knowingly make a false complaint, or after notice of a criminal investigation to give false information to any law enforcement officer concerning the alleged commission of any crime by another

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I am enclosing a copy of an opinion of this Office, dated August 24, 1992 which is dispositive of your question. There, the question was addressed as to whether the statute is applicable to the situation where a person "misrepresents one's identity to a law enforcement officer if the investigation involves one's own actions." The opinion stated:

... Section 16-17-725 appears to be inapplicable to a situation where an individual misrepresents his own identity to a law enforcement officer if the investigation involves the same individual. As stated above, pursuant to such provision the prohibited actions appear to deal only with the alleged commission of an offense "by another." This advice should not be construed as applying to any particular set of facts or circumstances. Also, any decision with regard to what criminal charges may be applicable or the decision of whether or not to proceed with a particular charge is within the discretion of the local prosecutor.

Thus, the General Assembly would have to amend the statute to address the situation which you are referencing.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General

RDC/an
Enclosure