

1980 WL 120843 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 21, 1980

***1 RE: Freedom of Information Act**

Ms. Deborah C. Westbrook
Assistant County Attorney
Greenville County Courthouse
Greenville, SC 29601

Dear Ms. Westbrook:

Pursuant to our telephone conversation and your letter of August 11, 1980, I am enclosing four (4) previous Opinions of this Office dealing with the disclosure of complaints, investigative reports and informants' identify. After reviewing these Opinions, it is my view that the Greenville County Dog Control Authority is a public safety agency and as such is entitled to rely upon [Section 30-4-40\(a\)\(3\) South Carolina Code of Laws \(1976\)](#). This Code Section exempts from disclosure the identity of an informant, the premature release of information to be used in a law enforcement action, investigatory techniques, and any records, the release of which might endanger the life, health or property of any person. The question which you have posed is whether or not a dog owner is entitled to the identity of an informant who files or telephones in a complaint alerting the Greenville County Dog Control Authorities to a possible violation of the Dog Control Ordinance. It is my view that the name of the informant under the statute is not a matter of public record and should not be disclosed absent the consent of that individual. To do otherwise would chill the likelihood that individuals would report violations of the Ordinance in question.

In [Nix v. United States, 572 F.2d 998, 4th.Cir. \(1978\)](#), which I also enclose, the Court stated that in applying the exemption provisions of the Federal Freedom of Information Act, the Court must balance the public and private interests involved. In [Nix, supra](#), where the Petitioner sought the identity of certain informants, the Court looked to the vulnerable nature of the informer, the potential for reprisal from the persons complained against, and the expectation of confidentiality. The Court also looked to a balancing of the public interest versus the private interest of the private individual seeking the identity of the informants. While this case, of course, dealt with the Federal Act, the rationale is still applicable to the South Carolina Act, and those same considerations may be looked to in determining whether or not to release the complainant's name to an irate dog owner. Absent the consent of the complainant, the identity of that individual may be withheld.

Although the Greenville County Dog Control Ordinance is penal in nature, any Sixth Amendment 'right of confrontation' would be taken care of by the Court upon a prosecution of the charged party and the Freedom of Information Act would not be applicable.

If I may assist you any further in this matter, please do not hesitate to contact me.

Sincerely,

Judith Evans Finuf
Assistant Attorney General

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