

1977 WL 46006 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 5, 1977

MEMORANDUM

***1** J. O. Freeman
Lexington County Sheriff and Police Chiefs Association

QUESTIONS:

- (1) What information may be given to the general public about persons charged with or convicted of offenses?
- (2) What records are to be made available to the general public or persons requesting information for employment of subjects?

STATUTES AND CASES:

[15 USCS §§1681c, 1681k](#); 4288 Op. Att'y Gen. 1976; §17-1-40 Code of Laws of South Carolina (1976); §14-21-30 Code of Laws of South Carolina (1976); §44-53-450 Code of Laws of South Carolina (1976).

DISCUSSION:

A 1968 opinion of this office stated that, as a matter of public policy, this state adopted three provisions requiring destruction or expungement of records. South Carolina Code Section 17-1-40 (1976) mandates that all records shall be destroyed where one is charged with a criminal offense and such charge is dismissed or the individual is found to be innocent. Code Section 14-21-30 requires that records of juvenile proceedings be privileged information, open to inspection only to persons with legitimate interests and only upon judicial consent. Code Section 44-53-450 provides for the expungement of criminal records in certain convictions or guilty pleas regarding a first offense possession of marijuana and other controlled substance.

Records pertaining to the conviction of an individual are considered public records. Subject to the exceptions contained in Code Sections 14-21-30 and 44-53-450 those records are to be made available to persons inquiring about them. Records pertaining to arrests which did not end or have not ended in conviction are not public records, and such information should not be given out except upon the written consent of the individual involved.

A. Camden Lewis

Approved By:

Frank K. Sloan
Deputy Attorney General
Victor S. Evans
Deputy Attorney General

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