

1973 S.C. Op. Atty. Gen. 283 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3612, 1973 WL 21974

Office of the Attorney General

State of South Carolina

Opinion No. 3612

August 31, 1973

**\*1** Public Defenders and Assistant Public Defenders are prohibited from representing persons charged with a criminal offense under the laws of this State in any county of the State in their private practice of law.

Public Defender

Lexington County

Thank you for your letter of August 29, 1973 inquiring whether Public Defenders may represent, individually or in association with other attorneys, criminals charged with crimes in any of the counties of the State.

As noted in your letter, Section 17–285(e), Code of Laws, 1962, as amended, provides that Public Defenders may engage in the private practice of law if permitted to do so by the governing board of the Defender Corporation under whom they serve, to the extent that it will not interfere with or prevent the performance of their duties as Public Defenders. This section contains the proviso that “Public Defenders and Assistant Public Defenders shall not represent persons charged with a criminal offense under the laws of this State in their private practice of law.” It is my opinion that this proviso has the effect of prohibiting Public Defenders and Assistant Public Defenders from representing persons charged with a criminal offense under the laws of this State in any county of the State. This appears to be the plain meaning of the statute and this construction appears particularly warranted by consideration of specific authorization given to solicitors to defend persons charged with criminal offenses in certain circumstances. Section 1–255, Code of Laws, 1962. Where the General Assembly has intended that an exception to the general prohibition be made, they have so specifically provided, and there is no exception with respect to Public Defenders or Assistant Public Defenders.

Daniel R. McLeod

Attorney General

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