

1981 WL 158168 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 25, 1981

\*1 M. Eve Moredock  
Staff Attorney  
South Carolina Court Administration  
P.O. Box 11788  
Columbia, S.C. 29211

Dear Eve:

In a letter to this Office you raised several questions relating to the issuance of a subpoena duces tecum by a magistrate's court.

In your first question, you asked whether a magistrate is authorized to issue a subpoena duces tecum. Please be advised that in the opinion of this Office, a magistrate is not so authorized. I have found no authority which may be construed as permitting a magistrate to issue such a writ. The only statutory authority permitting a magistrate to compel testimony is [Section 22-3-930, Code of Laws of South Carolina](#), 1976. Such section states in part:

'(a)ny magistrate, on the application of any party to a cause pending before him, shall issue a summons citing any person whose testimony may be required in such cause to appear before him at a certain time and place, not more than twenty miles from the residence of such witness, to give evidence.'

As is evident, statutorily, magistrates do not have wide authority to compel testimony. Furthermore, it would appear to be little basis for construing a magistrate's court as having inherent authority to issue such a writ.

Inasmuch as the answer to your first question is negative, a response to your remaining questions appear to be unnecessary.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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