



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

August 14, 1995

*Informal Opinion*

W. S. Hanks, Chief of Police  
Honea Path Police Department  
30 N. Main Street  
Honea Path, South Carolina 29654

Dear Chief Hanks:

You have asked about a specific factual situation where a car was allegedly stolen from Honea Path and taken to Washington, D.C. You wish to know whether there would be a sufficient case for grand theft (auto) against a person who was found in the car. You note also that "the suspect was involved in the same type case in 1991 where he stole a vehicle from our area and was captured in said vehicle in Washington, D.C. at that time." You further indicate that you "have been told by our local Solicitor Office that this is not enough proof to charge this subject because we have no witness(s) that [observed] him take the car and that they will not extradite this person for trial."

I am enclosing for your information a copy of an Informal Opinion, authored by me, dated March 28, 1995. Therein, I describe in some detail the possible charges which could be brought for a stolen automobile.

I also note that any criminal charge would, of course, depend upon the particular facts of the case. In 1989 Op. Atty. Gen. 181, we noted that the judgment call "as to whether to prosecute a particular individual is warranted, or is on sound legal ground in an individual case" is a matter within the discretion of the Circuit Solicitor. We specifically noted that factors which the Solicitor must always consider in determining whether or not to prosecute are the "likelihood of a conviction" and the "weight of the evidence".

When a Solicitor has made such a judgment call in a particular case, this Office generally defers to the Solicitors judgment. The Solicitor is the person on the scene who

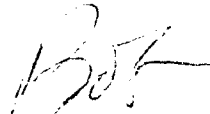
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can weigh the strength or weakness of a particular case. Thus, while I can provide to you the relevant law in this area, and am happy to do so, I must defer to the Solicitor's judgment as to whether or not to prosecute this individual in question.

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/ph  
Enclosure