The State of South Carolina

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The Honorable Woodrow M. McKay
Member, House of Representatives
314-B Blatt Building
Columbia, South Carolina 29211

Dear Representative McKay:

In a letter to this Office you questioned who appoints magistrates' constables. You questioned whether such appointment is the prerogative of each magistrate or the chief magistrate. In responding to your question, I am assuming that the position of constable has been authorized and/or funded by the county. See: Section 22-8-30 of the Code.

Section 22-9-10 of the Code states

> Except as otherwise provided in this Title _each magistrate may appoint_ one person to discharge the duties of constable within the jurisdiction of such magistrate and the constable so appointed shall receive the compensation provided by law. He shall hold his office for the term of two years, subject to the removal by the _magistrate appointing him_. (emphasis added)

It is a rule of statutory construction that where a statute is clear and unambiguous, there is no room for construction and the terms of the statute must be given their literal meaning. _Duke Power Co. v. S.C. Tax Commission_, 292 S.C. 64, 354 S.E.2d 902 (1987). Referencing the plain language of Section 22-9-10, it appears that each magistrate is authorized to make the actual appointment to the position of constable. See also: Opin. of the Atty. Gen. dated June 20, 1979 ("the power of appointing an individual as constable is given to the individual magistrate.") I am unaware of any statutory authority limiting such appointments to a chief magistrate.

With kind regards, I am

Very truly yours,

Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:

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