

1979 WL 42891 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 29, 1979

*1 Melvin B. McKeown, Jr., Esquire
Spratt, McKeown & Spratt
26 West Liberty Street
York, South Carolina 29745

Dear Mr. McKeown:

In your letter of March 12, 1978, to this office you stated that the Mayor of Hickory Grove has refused to issue any arrest warrants and refers all requests for such warrants to the York County magistrate. You stated that the refusal to issue warrants concerned both misdemeanors triable within the jurisdiction of the Mayor's court and felonies. Furthermore, you stated that the local magistrate had indicated that he could not issue warrants as to offenses committed within a municipality because of instruction he had received from the Court Administration offices. In your letter you asked for a clarification of the powers of a Mayor as to issuing arrest warrants in the above-described situations.

As to the powers of a mayor in criminal matters, [Section 14-25-10 of the Code of Laws of South Carolina](#), 1976, states:

(t)he intendants or mayors of the cities and towns of this State shall have all the power and authority of magistrates in criminal cases within the corporate limits and police jurisdiction of their respective cities and towns and shall especially have the power and authority to try speedily all offenders against the ordinances or laws of the city or town in a summary manner and without a jury, unless demanded by the accused. A mayor or intendant pro tempore shall have the same powers.

In reference to such grant of authority this office has previously issued opinions commenting on the authority of a mayor pursuant to such statute. 1968 Op. Att'y Gen. No. 2497, p. 174 stated:

(m)ayors and magistrates have concurrent jurisdiction where a crime is committed within the limits of an incorporated town when said crime is a violation of the town's ordinance as well as a statutory offense.

1964 Op. Att'y Gen., No. 1688, p. 142 stated that:

(t)he mayor or intendant of the cities and towns of this State has all of the powers and authority of magistrates in criminal cases for offenses committed within the corporate limits and in criminal matters beyond their jurisdiction to try, may issue warrants, sit as examining courts, bind over, and except in capital cases, set bond.

Copies of such opinions are included.

With reference to such opinions and pursuant to [Section 14-25-10](#), it is the opinion of this Office that a mayor is authorized to issue arrest warrants for offenses committed within the limits of the municipality which are violations of the town's ordinances or State statutory offenses. This authority, of course, reaches to both cases triable within the jurisdiction of the mayor's court as well as cases beyond his jurisdiction to try.

In your letter you referenced a letter from Neal Forney commenting on a December 5, 1978, opinion of this Office which discussed the authority of a magistrate to issue warrants, conduct bail proceedings and hold preliminary examinations as to municipal court cases. Enclosed please find two other opinions of this Office issued in reference to the same subject written

to clarify certain questions which arose in light of the December 5th opinion. Please note that both of these latter opinions noted that municipal recorders were authorized to issue warrants, conduct bail proceedings, and hold preliminary hearings for municipal cases triable in general sessions court. As to the question raised, which was the central question, as to whether it is mandatory that magistrate perform such duties for such cases, these opinions indicated that while magistrates possessed concurrent jurisdiction with city recorders, and thus had jurisdiction to perform such duties, there was no authority which mandated that they must in all instances perform such functions. The opinions were issued to clarify the fact that city recorders could perform such functions themselves for their municipalities. It had been brought to our attention that apparently certain recorders in some instances were not performing such duties and that magistrates were required to handle all such matters. It was stated that such requirement was putting too much of a workload on these magistrates. Therefore, as to your statement that the local magistrate is of the opinion that he cannot issue warrants as to certain offenses that occur within the municipality, as the above-referenced opinions indicate, a magistrate does possess concurrent jurisdiction with a municipal judicial officer, regardless of whether he is a mayor or recorder, to issue warrants for offenses which are State statutory offenses.

*2 Hopefully the above discussion is a full response to your question. If there is anything further, please contact me.
Sincerely,

Charles H. Richardson
Assistant Attorney General

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