

1980 WL 120938 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 21, 1980

\*1 Honorable William E. McLeod  
Magistrate  
Florence County  
City-County Complex  
Florence, SC 29501

Dear Judge McLeod:

In a recent letter to this Office, you referenced a previous opinion of this Office, 1965 Opinion of the Attorney General No. 1800, page 44, which stated that city policemen were not authorized to serve papers in claim and delivery actions or to execute thereon. Such opinion stated instead that:

'(o)nly magistrates' constables, in actions within the jurisdiction of magistrates' courts and sheriffs and their deputies in actions in other courts, are authorized to serve any papers in claim and delivery, or to execute thereon . . .'

You referenced that included in recently enacted Act No. 480 of 1980, which establishes a uniform system of municipal courts in this State, is the provision that municipal police are '. . . invested with the same powers and duties as are provided for magistrates' constables.' (Section 14-25-55). You have asked whether this latter provision should be construed as authorizing municipal police to serve papers in claim and delivery actions and execute thereon.

Please be advised that in the opinion of this Office, the above referenced language concerning police officers does not expand the duties of municipal police officers so as to authorize their serving claim and delivery papers and executing thereon. Such language is included in a paragraph which generally details the obligations of the municipal police to a municipal court. The referenced language in Section 14-25-55 should not be taken out of context, but instead should be read in association with other provisions of Act No. 480 of 1980 and particularly that provision in Section 14-25-45 that a municipal court '. . . shall have no jurisdiction in civil matters'.

If there are any questions concerning the above, please contact me.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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