

1977 S.C. Op. Atty. Gen. 47 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-46, 1977 WL 24389

Office of the Attorney General

State of South Carolina

Opinion No. 77-46

February 3, 1977

***1 RE: Appointment of Magistrates' Constables**

Honorable James R. Metts
Sheriff
Lexington County
Lexington County Law Enforcement Center
Lexington, South Carolina 29072

Dear Jimmy,

I apologize for the delay in answering your correspondence concerning the appointment of Magistrates' Constables. As you know I have been away from the Office for a while and have not had time to catch up on my paperwork.

You have inquired as to whether there are any prior Attorney General Opinions regarding the issuing of Magistrates' Constable commissions by the Sheriff. As far as I can determine the Sheriff does not have the authority to appoint a Constable for a Magistrate. The applicable Section is 43-301, 1962 Code of Laws. Therein, it provides that the Magistrate shall have the authority to appoint one person to discharge the duties of Constable within the jurisdiction of such Magistrate. The only reference I can find to the Sheriff insofar as the Constable's duties, is contained in Section 43-318.

The Magistrates' Constable acts much in the same capacity as a federal marshal, i.e. officer of the court. Even though he is endowed with certain law enforcement powers he would be considered a branch of the court and not under the Sheriff's Office.

I hope this will answer your inquiry sufficiently, if not, please do not hesitate to call upon me.

With kindest regards, I am
Very truly yours,

Cameron B. Littlejohn, Jr.
Assistant Attorney General

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