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Office of the Attorney General

State of South Carolina

January 6, 1978

*1 Deputy Chief Schuyler M. Meyer, III
Staff Services Bureau
County of Charleston
Department of Police
3505 Pinehaven Drive
Charleston Heights, South Carolina 29405

Dear Deputy Meyer:

As we discussed this last Thursday by telephone, your letter to the Attorney General has been referred to me for reply.

You have first asked whether the issuance of a uniform traffic ticket in an accident situation must be accompanied by an arrest. Please be advised that this question is presently before the South Carolina Supreme Court, and a decision is expected in the relatively near future. However, the matter being presently in litigation, I must respectfully decline to express an opinion until the matter has been determined by the Court. As you requested, I will inform you immediately of the Court's decision when it is finally handed down.

Regarding your second question, please be advised that our Office has consistently taken the position that a police officer is not effecting an arrest when he receives a shoplifting suspect from a security guard. Instead, he is taking custody of a lawfully arrested individual for delivery to jail. The mere fact that the police officer writes a uniform traffic ticket which notes himself as the arresting officer would not, in my opinion, be either necessary nor dispositive regarding the true facts of the arrest should such subsequently be called into question in a civil action. The fact that the police officer did not observe the shoplifting would have no bearing on the lawfulness of the arrest as it may relate to the officer's custody of the person, since the police officer did not make the initial arrest.

I trust the preceding discussion adequately answers your questions, however, if you have any further questions in these regards, please feel free to contact me.

Very truly yours,

Richard P. Wilson
Assistant Attorney General

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