

1978 WL 35220 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 13, 1978

***1 RE: Request For Opinions From Mayor Charles Ross Of The Town Of Lincolnville**

Mr. Neal Forney
Assistant Director
South Carolina Court Administration
P. O. Box 11788
Columbia, S. C. 29211

Dear Mr. Forney:

In your letter dated October 26, 1978 you asked in reference to a letter from Mayor Ross whether a councilman of a municipality with a population under 1,000 is authorized to issue arrest and search warrants pursuant to [Section 14-25-90 of the 1976 Code](#) of Laws.

[Section 14-25-90](#) states in part;

The mayor or intendant and any alderman, councilman or warden of any city or town in this State may, in person, arrest, or may authorize and require any marshal or constable especially appointed for that purpose to arrest, any person who, within the corporate limits of such city or town, may be engaged in a breach of the peace, any riotous or disorderly conduct, open obscenity, public drunkenness or any other conduct grossly indecent or dangerous to the citizens of such city or town or any of them.

In the opinion of this Office such statute does not authorize councilmen to issue arrest or search warrants. It merely authorizes such councilmen to arrest or 'authorize and require' a marshal or constable to arrest for those offenses referenced in the statute. A previous opinion of this Office, Ops. Atty. Gen. No. 1649 dated March 24, 1964, stated that the statute was intended to permit those referenced officials '... to make arrests for conduct that is obviously dangerous to the citizens of the town.' Therefore, in the opinion of this Office, 'authorize and require' may not be construed so as to permit such councilmen to issue arrest and search warrants.

With best wishes, I am

Very truly yours,

Charles H. Richardson
Assistant Attorney General

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