

1975 WL 29041 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 30, 1975

\*1 Mr. William Neil Graham  
Chairman  
Department of Criminal Justice  
Tri-County Technical College  
P. O. Box 87  
Bendleton, S. C. 29670

Dear Mr. Graham:

Attorney General McLeod has referred your letter to me for reply. I am enclosing provisions of the South Carolina Code of Laws which deal with the questions which you raised and a brief commentary on these provisions.

(1) Armed Aldermen—§ 16-1291 of the Code designates those person who may carry pistols on their person, whether or not concealed. Aldermen, with no additional commissions or offices, are not one of the classes of persons allowed to carry such weapons.

(2) Detaining Persons for Questioning—§ 17-251 and 17-252 provide that any citizen may arrest for a felony upon certain information or in view, for larceny committed in view, or for certain offenses committed in the nighttime. If the alderman's activities exceed these limits, he may be liable in tort for false imprisonment. In addition, these aldermen should be aware that a person may 'resist an unlawful arrest, if it be necessary, even to the extent of taking the life of the aggressor, . . . ' [State v. Bethune](#), 112 S.C. 100, 99 S.E. 753 (1916).

(3) Demands for Release of Prisoners and Interference with Judicial Process—§ 17-300(b) provides that a magistrate may place a person in the custody of a designated person or organization agreeing to supervise. This, however, is a decision made by the magistrate who, under § 43-3, may be suspended by the Governor for any incapacity, misconduct or neglect of duty. § 16-211 also establishes criminal penalties for anyone offering bribes, gifts, gratuities, etc. to judicial officers. The sending of letters, with no attempt to bribe, is not a crime. If any of these aldermen are attorneys, however, they are subject to the Canons of Ethics which preclude such attempts to influence a judge.

I hope this information is of use to you.

Sincerely,

H. Laurence Moore  
Law Clerk

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