

1974 S.C. Op. Atty. Gen. 265 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3854, 1974 WL 21356

Office of the Attorney General

State of South Carolina

Opinion No. 3854

September 6, 1974

**\*1 State, county and municipal law enforcement officers may go upon federal property within the State to serve criminal process.**

Magistrate's Constable

Inquiry has been made regarding the authority of a magistrate's constable to arrest civilians and military personnel, pursuant to a proper state warrant, while the arrestee is located within the boundaries of a federal military reservation.

Section 39–52, *S. C. Code of Laws* (1962) provides:

Exclusive jurisdiction in and over any land acquired by the United States . . . shall be, and the same is hereby, ceded to the United States for all purposes except the service upon such sites of all civil and criminal process of the courts of this State.

Hence, by statute South Carolina has reserved the right for state, county and municipal law enforcement officers to go upon federal property in order to serve both civil and criminal process. *See United States v. Lovely*, 319 F.2d 673, 680 (1963); 1971 S. C. Atty. Gen. Opn. No. 3215.

The 'service of process' as used herein is interpreted to mean the execution of those final acts necessary for a State court to obtain personal jurisdiction over a defendant or other party. *See Black's Law Dictionary*, Revised 4th Ed., 1370 (1969). 'Criminal process' as used herein is interpreted to mean not only delivery of a warrant but also execution of that warrant. *See S. C. Code* § 17–259 (1962) and citations thereto. Based on this authority, it is the opinion of this office that state, county and municipal law enforcement officers may go upon federal property within this State and may not only serve but may also execute arrest warrants. This right to serve process pertains to both civilian and military personnel. It is further the opinion of this office, however, that this is not an absolute right and is affected by the lawful authority vested in federal officials to maintain order upon their premises and is also affected by the fact that active duty military personnel, while on a military reservation, are actually in the custody of the post commander and must not be carried off of federal property without being released by military authorities. Consequently, law enforcement officers wishing to serve process on federal property, and particularly on military reservations, should coordinate, and cooperate, with federal/military authorities in all cases where an arrest is to be made or where a disturbance is likely to result.

John B. Grimball  
Assistant Attorney General

1974 S.C. Op. Atty. Gen. 265 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3854, 1974 WL 21356