

1973 WL 26817 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 16, 1973

**\*1 Re: Municipal Police, Territorial Authority**

Hon. L. L. Lower  
Chief of Police  
Lancaster, South Carolina 29720

Dear Chief Lower:

You have inquired whether or not police of a municipality are empowered to arrest for a misdemeanor at a point more than three miles from the municipal limits when they are in hot pursuit for an offense committed within the municipality.

I agree with you that it does not seem realistic that the General Assembly has not made some provision to arm municipal police with arrest powers beyond the three-mile limit, but the plain fact is that it has not done so. The police power of municipal officers ceases to exist at the three-mile, whether hot pursuit is involved or not.

Your reference to an early court case indicates that you are involved with a prosecution in which arrest for misdemeanor was made outside the three-mile limit, and that you anticipate the defense will be that since the arrest was illegal, the charge(s) must be dismissed. Your attention is directed to the case of [State v. Swilling](#), 249 S.C. 541, 155 S.E.2d 607, in which the Supreme Court of South Carolina held that an illegal arrest does not affect subsequent prosecution of the criminal offense, and that dismissal of the charges because the arrest of the defendant was illegal is not warranted. The only way the illegal arrest could affect the case would be in the area of the admissibility of any evidence was obtained as a result of the arrest, such as evidence found on the person of the defendant or in his car in a search incident to arrest, or a statement of the defendant obtained after the arrest. There is no justification for dismissal of the charge(s) in such a case simply because the arrest was illegal.

Yours very truly,

Joseph C. Coleman  
Deputy Attorney General

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