

1979 WL 43138 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 29, 1979

\*1 Chief Keith M. Matthews  
Chief of Police  
Town of Salley  
Salley, South Carolina 29137

Dear Chief Matthews:

In a letter to this Office you asked whether an arrest warrant is necessary to properly arrest an individual for first offense driving under the influence.

Please be advised that in the case of [State v. Biehl](#), 246 S.E.2d 859 (1978) the South Carolina Supreme Court reaffirmed its earlier holding in [State v. Prince](#), 262 S.C. 89, 202 S.E.2d 645 (1974), where the court held that pursuant to [Section 56-7-10, Code of Laws of South Carolina](#), 1976, the service of a uniform traffic ticket vests a traffic court with jurisdiction to hear and dispose of the charges, including first offense driving under the influence, for which a uniform traffic ticket was issued. An arrest warrant is not necessary to give the court jurisdiction to consider the case and therefore it is not necessary that an arrest warrant be served on an individual arrested for driving under the influence in addition to a uniform traffic ticket.

Please be advised however that while a uniform traffic ticket suffices as a charging document to give a magistrate's court jurisdiction to hear a driving under the influence case, as to those situations where the arresting officer does not actually witness the circumstances that results in an arrest for driving under the influence, an arrest warrant should additionally be served if the State intends to introduce any evidence, such as a breathalyzer test result, which was procured as a result of the arrest. This is based on the legal premise that an officer may arrest without a warrant only when a misdemeanor is committed in his presence.

Hopefully the above is in full response to your inquiry.  
Sincerely,

Charles H. Richardson  
Assistant Attorney General

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