

1978 WL 35304 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 13, 1978

\*1 James R. Metts, Sheriff  
Lexington County Sheriff's Department  
521 Gibson Road  
Lexington, S. C. 29072

Dear Sheriff Metts:

In reference to your letter of September 28, 1978 to this Office in which you asked whether or not municipal police officers are required to serve court orders, and in particular an 'Order of Detention, issued by a probate judge pursuant to Section 44-17 430 of the 1976 Code of Laws a review of the ?? statute reveals that it specifically provides that upon the presentation of an affidavit concerning an individual alleged to be mentally ill which is in compliance with the requirements of such statute,

. . . the judge of probate for the county in which the individual is present may require any officer of the peace to take the individual into custody . . .

Therefore, it is the opinion of this Office that it is the duty of any officer of the peace, including a municipal police officer, to execute such orders issued by the probate judge when directed to do so by the probate judge. However, as you are aware, the general law with respect to sheriffs imposes on the sheriff the ultimate responsibility to 'serve, execute and return every process, rule, order or notice issued by any court of record in this State . . .' ([Section 23-15-40 of the 1976 Code of Law.](#)). Also, by [Section 14-23-440 of the 1976 Code of Laws](#) it is provided that any sheriff or constable shall execute the orders of a probate court.

With best wishes, I am  
Very truly yours,

Charles H. Richardson  
Assistant Attorney General

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