

1978 WL 34597 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 13, 1978

**\*1 RE: Prosecution of Cases in Municipal Courts**

Kelly F. Zier, Esquire  
P. O. Box 6516  
North Augusta, S. C. 29841

Dear Mr. Zier:

In your letter of September 28, 1978 to this Office you questioned whether as to cases prosecuted in the municipal court, the Chief of Police has the ability to exercise any type of control over such cases without the consent of the arresting officer, whether the City Attorney can exercise any type of control over such cases without the consent of the arresting officer, or whether the arresting officer has total control over a case made by him. As to such, you stated you were primarily concerned with a nolle prosequi of a charge where a review of the situation indicates that the case is not a proper one for prosecution. You stated that in the City of North Augusta, the City Attorney presently takes control of all cases where a jury trial is requested but where there is no jury trial, the City Attorney takes no part and makes no review of the case.

In the opinion of this Office, it would certainly be within the authority of a Chief of Police or a City Attorney to exercise their discretion. The better policy would be for it to be understood that it is not to be left to the ultimate discretion of the arresting officer whether or not a particular case is prosecuted, but instead, a review of such a case, regardless of whether or not a jury trial is requested, may be made by the Chief of Police or the City Attorney as to whether the case is a proper one for prosecution.

With best wishes, I am  
Very truly yours,

Charles H. Richardson  
Assistant Attorney General

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