

1975 WL 29015 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
July 16, 1975

*1 Ms. Ann. Furr
Richland County Public Defender
Richland County Courthouse
Columbia, South Carolina 29201

Dear Ms. Furr:

Your recent correspondence has been referred to me by Deputy Attorney General Coleman for reply. You have inquired as to whether the new Code Section 43-111.1 would provide a time limit or a penalty for failure to furnish a copy of the arrest warrant as mandated by same. Section 43-111.1 provides in pertinent part as follows:

'When any person is arrested in a criminal matter pursuant to an arrest warrant, the person so arrested shall be furnished with a copy of such warrant and the affidavit upon which the warrant was issued.' (Emphasis Added)

While the language of Section 43-111.1 is mandatory in nature, it fails to provide for a time limit and/or penalty for noncompliance. As a practical matter it is highly inconceivable that an officer armed with an arrest warrant would refuse to provide the arrestee with a copy thereof. Moreover, there is nothing to prevent the arresting officer from curing the 'defective' arrest at some future point in time. I refer you to Rules 1 and 2 of the Defense of Indigents Act. Said rules also provide that notice be given to the accused of the charges against him and of the nature of the charges. It appears then that should an arresting officer fail to provide an arrestee with a copy of the arrest warrant proper notice is still had.

Since Section 43-111.1 provides for no time limit or penalty for noncompliance, it must be taken that such was not within the contemplation of the draftsman. Therefore we can neither add nor detract from the provision under inquiry.

Sincerely,

Herman L. Moore
Law Clerk

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