



ALAN WILSON
ATTORNEY GENERAL

June 7, 2018

The Hon. Larry Rogers
Municipal Judge, City of Bennettsville
PO Box 1253
Bennettsville, SC 29512

Dear Judge Rogers:

We received your opinion request regarding the appropriate court to issue warrants requested by South Carolina Department of Corrections officers operating within municipal limits. The following opinion sets out our understanding of your question and our response.

Issue (as quoted from your letter):

Evans Correctional Institution lies inside the city limits of Bennettsville, SC which is in the County of Marlboro. The Bennettsville Municipal Court uses a software program [omitted] which does not allow the Agency ORI number for SCDC to be printed on warrants. The Marlboro County Magistrate Court's software program does have this capability. However, the Marlboro County Magistrate Court has stated they will not be issuing warrants for SCDC because the prison is located inside the City limits and is therefore the responsibility of the Municipal Court.

Please let me know at your earliest convenience which agency is responsible for issuing warrants [to] SCDC officers so we may get this matter resolved.

Law/Analysis:

It is the opinion of this Office that judicial officers of the City of Bennettsville (the "City") and Marlboro County (the "County") have concurrent jurisdiction to issue warrants in the situation you describe, and South Carolina law does not expressly assign either the City or the County a greater or lesser responsibility for issuance of warrants to SCDC officers.

Our Office has opined on numerous occasions that municipal judges and magistrate judges have concurrent jurisdiction to issue warrants for crimes committed within municipal limits. *See, e.g., Op. S.C. Att'y Gen.*, 1979 WL 29014 (January 16, 1979). Our Office also has

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previously considered the question of whether a magistrate must issue a warrant for an arrest to be made within city limits for a general-sessions level offense where the municipal recorder would also have jurisdiction to issue such a warrant. *Id.* There we opined:

[W]hile admitting that magistrates have concurrent jurisdiction with recorders, there does not appear to be any authority which specifically mandates that magistrates must perform those duties for city cases as outlined in your question. Instead, as indicated, municipal recorders are authorized to issue warrants, hold preliminary hearings, and conduct bail proceedings for such cases.

Id. We are not aware of any legal developments which would cause us to revisit this conclusion that a magistrate is not expressly mandated to issue warrants for "city cases." For that reason, we opine in response to your question that South Carolina law does not expressly assign either the City or the County a greater or lesser responsibility for issuance of a warrant to SCDC officers where both the City and the County have concurrent jurisdiction over an offense. *See id.*

However, the scenario presented in your letter raises an additional issue, which is the possibility that both the City and the County might refuse to issue warrants to SCDC officers simply for logistical or convenience reasons even where there is probable cause to believe a crime has been committed. In other words, the County might direct officers to the City and the City might in turn direct officers to the County, with the result that the SCDC officers are placed in a chaotic or impossible position when seeking to enforce the law as their office requires. We caution that such a frustration of justice would be contrary to the public interest. *Cf. State ex rel. McLeod v. Seaborn*, 270 S.C. 696, 699, 244 S.E.2d 317, 319 (1978) (opining that a particular summary court practice "renders an important service to the public by promoting the prompt and efficient administration of justice" (emphasis added)).

Accordingly, we advise that the City and the County should coordinate with each other and with SCDC to establish how and when SCDC officers may seek warrants in the summary courts having jurisdiction. We are confident that these public offices, which exercise the sovereign power of the State and are supported by the taxpayer, can collaborate to devise a reasonable and practical plan to address this need in the public interest. We also believe that such a solution would be preferable to an inflexible rule imposed by a higher authority in the event that such rules were necessary to avoid the frustration of justice. To the extent that the City faces technical challenges in the issuance of warrants to SCDC, we advise that the City should contact South Carolina Court Administration for assistance in resolving those issues.

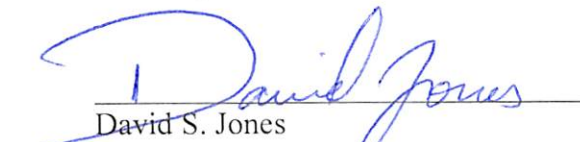
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Conclusion:

In conclusion, it is the opinion of this Office that judicial officers of the City of Bennettsville and Marlboro County have concurrent jurisdiction to issue warrants in the case you describe, and South Carolina law does not expressly assign either the city or the county a greater or lesser responsibility for issuance of warrants to SCDC officers. We advise that the City and County should coordinate with each other and with SCDC to resolve this issue in the public interest.

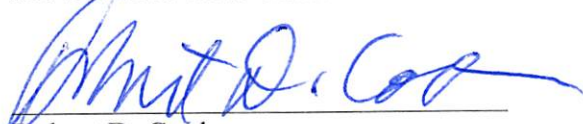
A courtesy copy of this opinion will be sent to the Chief Magistrate Judge for Marlboro County and the South Carolina Department of Corrections.

Sincerely,



David S. Jones
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General