



STEVE CLARK
ATTORNEY GENERAL

STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

September 26, 1985

(501) 371-2007

OPINION NO. 85-200

Honorable Wayne Matthews
Prosecuting Attorney
P. O. Box 8051
Pine Bluff, Arkansas 71611

Dear Mr. Matthews:

This is in response to your request for an opinion on the following question:

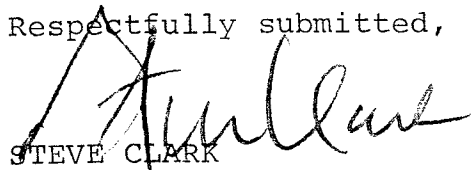
Whether law enforcement personnel in making arrests for misdemeanor offenses and issuing citations thereon must follow the requirements of Ark. Stat. Ann. §75-1008 or are they required to follow the requirements and directives of a Municipal Court Judge or Magistrate having jurisdiction over the offense?

The provisions of that statute are specific and section (e) provides that any officer violating its provisions shall be guilty of misconduct in office and shall be subject to removal from office. In addition, Ark. Stat. §75-1010 provides that the provisions of §§75-1005 -- 75-1009 shall govern arrests without a warrant for violations of the act committed in the officers' presence, but are not exclusive of other methods prescribed by law for the arrest and prosecution of persons for offenses of like grades.

It appears, then, that an officer making an arrest and issuing a citation must follow the statute when the arrest is made without a warrant and the offense was committed in the officers' presence. In other situations, the officer may follow any other method prescribed by law.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Sandra Johnson-Buchanan.

Respectfully submitted,


STEVE CLARK
Attorney General

SC:SJB:jlh