

1983 WL 181827 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 4, 1983

\*1 Honorable J. Leon Gasque  
Captain  
S.C. Law Enforcement Division  
Post Office Box 21398  
Columbia, South Carolina 29221

Dear Captain Gasque:

In a letter to this office you indicated that SLED is considering microfilming the Division's investigative case files or investigative 'working papers.' I have construed your letter as questioning whether there are any obvious problems associated with such microfilming.

As referenced in your letter, [Section 19-5-610, Code of Laws of South Carolina](#), 1976, as amended, allows accurate reproductions of documents which were kept and reproduced in the regular course of business of a government agency, when satisfactorily identified, to be admissible in evidence as an original in a judicial or administrative proceeding. Such section specifically provides in part as follows:

'(i) if any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law. Such reproduction, when satisfactorily identified is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court.

Therefore, pursuant to such provision, SLED could microfilm the Division's investigative case files and such could subsequently be admitted into evidence as necessary.

While the above provision specifies that originals reproduced may be destroyed, such destruction is not authorized where the original document's 'preservation is required by law.' In an opinion dated December 7, 1978 issued by this office, a copy of which is enclosed, it was determined that the provisions of [Section 19-5-610, supra](#), do not supersede [Sections 30-1-10-30-1-140, Code of Laws of South Carolina](#), 1976, insofar as such statutes provide for retention, duplication, disposal, and destruction of records of State agencies. I would refer you to the provisions of [Sections 30-1-10 et seq.](#) and the explanation of such provisions as outlined in the opinion. Such statutes provide generally for the custody, retention, duplication, and destruction of public records.

If there are any questions concerning the above, please contact me.

Sincerely,

\*2 Charles H. Richardson  
Assistant Attorney General

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