

1975 WL 29429 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 27, 1975

**\*1 Re: Answers to Several Specific Questions as to scope of § 17-4 Code of Laws of South Carolina, as amended.**

Jack T. Gordon  
Special Agent-in-Charge  
Defense Investigative Service, District 23  
Columbia, Field Office  
Fort Jackson, South Carolina 29207

Dear Sir:

You have asked several questions concerning the application of § 17-4 Code of Laws of South Carolina, as amended. While the questions you have asked have never been directly adjudicated, there does exist sufficient authority to allow these answers:

1. Does a case which is nolle prossed fall within the law's mandate?

Though the law varies from State to State, in South Carolina the nolle prosequi is a 'final action'. Thus the law should apply in such situations.

2. Does the prohibition against retention of records also apply to magistrate and probate courts?

The act in question enumerates the specific records to which it applies and also is specific in stating its application to 'law enforcement agencies'. Given the preferable, literal meaning to these words it would seem that where the Legislature went to such pains to be specific, that if court records were meant to be included the act would so state.

3. Is the law retroactive?

In general, courts in South Carolina will not construe a law as retroactive unless it so states. Thus since retroactivity is not mentioned in the law, a literal interpretation would seem to indicate that it would not be.

Sincerely,

Wally Smith  
Law Clerk

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