

I05559/6184



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

March 25, 1997

The Honorable Greg L. Shore
Coroner, Anderson County
Post Office Box 8002
Anderson, South Carolina 29622

Re: Informal Opinion

Dear Coroner Shore:

You ask for an Opinion as to whether "there is a South Carolina Law as to how long we must maintain the files on death investigation in our office." You state that "[w]e currently have files dated back in the 50's with limited space and storage."

I would advise against the destruction or removal of such records. It is well recognized that public records may not be destroyed except in compliance with statutory direction. Gallagher v. Marion Co. Victim Advocate Program, Inc., 401 N.E.2d 1362 (1980). Section 30-1-10 et seq. (Public Records Act) governs the sanctity and security of public records (defined in Section 30-1-10(a)) in South Carolina. In an Opinion dated June 6, 1984, we commented that Section 30-1-10 et seq. "provides a comprehensive scheme for determining what public records should and must be preserved" Citing Op. Atty. Gen., December 7, 1978. In addition, we concluded that the statute delegates to the Department of Archives and History "the authority, within its discretion, to determine how long records shall be preserved in accordance with the 'effective management of records" Section 30-1-30 makes it a criminal offense for the unlawful removal of a public record from an office where it is usually kept or the altering, defacing, mutilation, secretion or destruction of public records.

I have been able to locate no statute which expressly deals with the authority to destroy a coroner's records relating to death investigations. In view of the fact that the Legislature has not seen fit to authorize such destruction, at least by the Coroner, it would appear that no authority exists outside of the Public Records Act.

Coroner Shore
Page 2
March 25, 1997

Moreover, we have concluded elsewhere that in the investigation of a death, a coroner is akin to that of a court in conducting a judicial proceeding. I can imagine circumstances where records of a long-closed death investigation might be valuable if the need for a revitalized criminal case should appear or if such records were needed by other courts such as in civil litigation. Moreover, even if the records had no present use left, such records would ultimately have historical value.

Therefore, it would be my recommendation that such records should not be destroyed. I would recommend in the alternative that you contact the Department of Archives and History, Local Records Division. Their telephone number is (803) 734-7914. I would hope that the Archives could assist you with recommendations for storage and/or duplication of these records in light of your space problem.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General

RDC/ph