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Vital Records Protection

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Vital Records Protection

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A companion to the disaster contingency plan is the vital records protection program. People can be evacuated; office space and supplies can be replaced. But the records of a local government are one of its most vital and vulnerable resources. If steps have not been taken to protect important records prior to a disaster, the resumption of regular operations after a disaster will be far more difficult and costly.

Whereas a contingency plan will provide instructions on how to respond immediately after a disaster, a vital records protection plan will inform government offices on the ongoing steps that should be regularly practiced in order to preserve the important information of the office. Records protection plans will vary depending on the volume and format of the records to be protected, the resources available to the county, and the technology present in offices. Any plan should, at a minimum, provide procedures for identifying, duplicating, and safeguarding vital records.

No office can afford to expend the amount of resources it would take to ensure the protection of every record in the office. For that reason, it is important to determine which records are truly vital and which are not.

Records management experts have divided records into four classes—

1. Nonessential records - those that if lost would not really be missed. Most convenience files, internal memos, and many routine papers of completed transactions fall into this category.
2. Useful records - records containing information which if lost would cause some difficulty but which could be easily replaced.
3. Important records - those records that cannot be dispensed with and that can be replaced only through the expenditure of substantial time, money, or manpower.
4. Vital records - those records which are essential and cannot be replaced. Vital records contain information essential to the continuity of operations or to the protection of the rights of the government or of individual citizens.^[1]

Begin by protecting those records that are indispensable. Since you cannot anticipate and prevent every possible disaster, the best course of action is to make sure there are off-site archival quality^[2] copies of the county's most important records.

If some records are stored in electronic format, state laws require that certain back-up procedures are followed to prevent loss of data. For obvious reasons tape or disk backups of electronic data should not be stored in the same location as the computer system itself. While less fragile than electronic records, paper records and microfilm also must be properly stored and cared for in order to prevent destruction of the records in the event of a disaster or from the ravages of time. Wherever possible, a county should archive its permanent records in a location or facility that is designed for records preservation.

If you need assistance in developing these plans for your county, both CTAS and the Tennessee State Library and Archives can help. Copies of disaster contingency plans and other publications on records protection are available upon request from Tennessee State Library and Archives.

Recovery of Stolen or Misappropriated Records

While it usually does not reach disastrous proportions, there are also certain human behaviors that you need to be prepared to respond to. If records are inappropriately removed from the office where they belong, the official who has custody of the records is not without remedy. Of course, criminal theft charges can be brought against someone who steals county documents. But what may prove to be a more practical remedy is to pursue an action to recover personal property.^[3] This action, also known as replevin, is a judicial proceeding whereby property that is in the wrong hands can be returned to the rightful owner or custodian. It is initiated by filing a complaint in the circuit or chancery court or by causing a warrant to issue in the general sessions court.^[4] Ultimately, the proceeding may result in the issuance of a writ of possession that directs the proper officer to take the property from the defendant and return it to the plaintiff.^[5] If you need to pursue such an action to recover misappropriated county records, contact the county attorney.

^[1] *Protecting Records—A Guide for Local Governments*, by Harmon Smith, issued by the National Association of Government Archives and Records Administrators (published March 1992), p. 3.

[2] According to the Tennessee State Library and Archives, the only media that will assure long-term survival of vital records are carbon-based ink on acid neutral paper and archival quality silver gelatin microfilm created and kept under conditions that meet archival standards. See Tennessee Archives Management Advisory 99-07.

[3] See T.C.A. §§ 29-30-101, *et seq.*

[4] T.C.A. § 29-30-103.

[5] T.C.A. § 29-30-107.

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