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Jurisdiction and Authority of the Public Records Commission

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,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

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Jurisdiction and Authority of the Public Records Commission

Reference Number: CTAS-179

The county public records commission is granted the power to oversee the preservation and authorize the destruction of any and all public records as defined by the law to be within the jurisdiction of the commission.

Those records within the jurisdiction of the county public records commission include—

- All documents, papers, records, books, and books of account in all county offices;
- The pleadings, documents, and other papers filed with the clerks of all courts including the courts of record, general sessions courts, and former courts of justices of the peace and the minute books and other records of these courts; and
- The minutes and records of the county legislative body.^[1]

Note: Prior to 1999, the County Public Records Commission also technically had jurisdiction over municipal records. As a practical matter, few municipalities were working with the county public records commission to manage their records. Since a legislative change in 1999,^[2] municipal records are no longer within the purview of the County Public Records Commission.

Oversight Over the Disposal and Final Disposition of Records

The most important role of the County Public Records Commission is to provide oversight and make determinations regarding the ultimate disposition of the records of county offices. County governments in Tennessee are not highly centralized. Individual elected officials have a great deal of independence in the management of their own offices. Recognizing this, and realizing the danger of a single official having the sole discretion regarding whether to keep important public records, the state legislature created the county public records commission and provided it with the authority to decide whether county records should be retained or destroyed.^[3] It is the responsibility of the commission to ensure that no county records that need to be preserved are destroyed prematurely and to ensure that original records which have been reproduced into other storage media have been properly duplicated before the originals are destroyed. In working with county officials, the commission should strive to balance this responsibility to protect records against the need to manage records efficiently. Since destroying records is absolutely necessary for keeping the records of an office manageable, the commission should encourage and cooperate with local officials in culling the obsolete and unnecessary records from their offices. There are two primary circumstances where the public records commission may authorize destruction of records. First, the records commission may authorize the destruction of temporary value records and working papers that are no longer needed by county offices and departments through its rules and regulations.^[4] Second, the commission may authorize the destruction of original paper records that must be retained permanently once those records have been successfully preserved in another format.^[5]

Authorizing Transfer of Records

For records commissions that place a premium on the historical preservation of county records, the law provides an alternative to destruction. Once the County Public Records Commission determines that a county office, department, or court no longer needs to retain a record, the commission may provide for transferring the record to another institution instead of destroying it. The records may be placed into the custody of a local or regional public library, a local, regional or state college library, or the county archives, to be preserved for historical purposes.^[6] The transfer of the records should be approved by a majority vote of the commission. At any time after the records are transferred to one of the entities listed above, the commission may, after giving one month's notice to the institution holding the record, transfer the records to another institution. If appropriated by the county legislative body, county funds may be expended by the records commission for the purpose of transferring records to an institution or for the maintenance and preservation of the records.^[7] If your county chooses to transfer records to another institution for storage and preservation, it is recommended that the county enter into a contractual agreement with that entity specifying that it is only keeping them on behalf of the county and that ownership of the records is not being transferred. Rather than transferring the records to a private library or archives, the Tennessee State Library and Archives recommends that a county should establish its own archives or enter into an interlocal agreement with other local governments for the creation of a regional archives. For additional information, see Establishing Archives.

[1] T.C.A. § 10-7-403.

[2] 1999 Public Chapter 167.

[3] T.C.A. § 10-7-401, *et seq.*

[4] T.C.A. § 10-7-406.

[5] T.C.A. § 10-7-404.

[6] T.C.A. § 10-7-414.

[7] T.C.A. § 10-7-414.

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