

**STATE OF TENNESSEE  
OFFICE OF THE ATTORNEY GENERAL**

**December 17, 2015**

**Opinion No. 15-80**

**Electronic Storage of Case Files by District Attorney General**

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**Question 1**

May a district attorney general reformat case files from their original paper format to electronic format for storage?

**Opinion 1**

Because a district attorney general's case files are state records, a district attorney general may reformat case files from paper format to electronic format only pursuant to a records disposition authorization that has been approved by the Tennessee Public Records Commission.

**Question 2**

If a district attorney general reformats case files from paper format to electronic format for storage, may the original paper versions of the case files be destroyed?

**Opinion 2**

A district attorney general may destroy the original paper versions of case files only pursuant to a records disposition authorization that has been approved by the Tennessee Public Records Commission.

**ANALYSIS**

A district attorney general is a state official. *See Jordan v. Knox Cnty.*, 213 S.W. 3d 751, 782 (Tenn. 2007); Tenn. Att'y Gen. Op. 99-186 (Sept. 17, 1999). Case files created by a district attorney general or his or her employees in connection with the performance of their official duties consequently are state records. *See* Tenn. Code Ann. § 10-7-301(1) (defining "state record or records" to mean "all documents, papers, . . . or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency").

The disposition of state records—which includes the "preservation of the original records in whole or in part, preservation by photographic or other reproduction processes, or outright destruction of the records," Tenn. Code Ann. § 10-7-301(3)—falls under the authority of the Tennessee Public Records Commission. *See id.* § 10-7-302 ("It is the duty of the commission to determine and order proper disposition of state records."). "The disposition of all state records

shall occur only through the process of an approved records disposition authorization.” *Id.* § 10-7-509. A “records disposition authorization” is “the official document utilized by an agency head to request authority for the disposition of records” from the Public Records Commission. *Id.* § 10-7-301(8). In short, Tennessee law requires a state agency to obtain approval for the disposition of state records, including their reproduction to a different format or their destruction, by submitting a records disposition authorization request to the Tennessee Public Records Commission.

The reformatting of a district attorney general’s case files from paper format to electronic format for storage constitutes “preservation by photographic or other reproduction process” and therefore is a disposition of state records that must be approved by the Tennessee Public Records Commission. A district attorney general may seek such approval by submitting a records disposition authorization request to the public records commission. The destruction of the original paper version of case files also constitutes a disposition of state records that likewise must be approved by the Tennessee Public Records Commission pursuant to a records disposition authorization. *See* Tenn. Code Ann. § 10-7-303(d) (“No record or records shall be scheduled for destruction without the unanimous approval of the voting members of the public records commission.”).

In sum, a district attorney general who wishes to convert paper case files to electronic format for storage and then destroy the original paper files may do so only if the Tennessee Public Records Commission has approved those measures as part of a records disposition authorization.

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