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Providing Access to Electronic or Computerized Records

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily 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 e-Li material.

Sincerely,

The University of Tennessee
County Technical Assistance Service
226 Capitol Blvd. Suite 400
Nashville, TN. 37219
615-532-3555 phone
615-532-3699 fax
ctas@tennessee.edu
www.ctas.tennessee.edu

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Providing Access to Electronic or Computerized Records

Reference Number: CTAS-1163

The advent of computers in government record keeping has created legal issues regarding not only the question of “what is a public record?” but also “what is the record itself.” If the assessment rolls in the assessor of property’s office are stored in computers, is the record only a standard report of that information or is it the raw data itself? If the public requests that the data be organized and produced in a format other than standard reports generated routinely by the office, is it entitled to that information in a format of its own choosing?

This is an area of the law that is developing along with the technology that clouds the issue. While the law was amended in 2017 to mandate acceptance of records request by electronic means under certain circumstances the law is less developed relative to methods of delivering requested records and what electronic data must be provided.

Relative to delivery, the Office of Open Records Counsel (OORC) has stated that when records are maintained electronically, records custodians should produce requested records electronically. The OORC has also stated that records should be produced electronically, when feasible, as a means of utilizing the most economical and efficient method of producing records.

Relative to what electronic data must be provided, under T.C.A. § 10-7-503 a county is not required “to sort through files to compile information or to create or recreate a record that does not exist” and “request for inspection or copying of a public record shall be sufficiently detailed to enable the governmental entity to identify the specific records for inspection and copying.” However, the line between simply providing recorded data stored electronically and creating a new record or compiling information can often become blurry based on the request and the county’s existing technology resources.

This is an area of the law that will undoubtedly evolve in the coming years as counties and citizens both become increasable intertwined with technology.

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