



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

PRICE DANIEL  
ATTORNEY GENERAL

July 5, 1950

Hon. Henry Taylor, Jr.  
County Attorney  
Bell County  
Belton, Texas

Opinion No. V-1079

Re: The legality of de-  
stroying the files  
of the County Court  
for years prior to  
1917.

Dear Sir:

We refer to your recent letter which reads  
as follows:

"I would like for you to answer for  
me the following question, 'Can Bell Coun-  
ty destroy the county court papers from the  
year 1905 to 1917?' The judgments in said  
cases to be destroyed are recorded and will  
not be destroyed, but lack of space for  
storage necessitates the destroying of said  
papers if possible to do so under the law.

"In my opinion, said papers and re-  
cords can not be destroyed unless a photo-  
static copy of same is made and kept. I  
have reached my opinion partly from Article  
6574b of the Texas Civil Statutes, which  
provides that the commissioners court of  
any county in Texas may, at its discretion  
order, authorize, and provide for the du-  
plication of all public records by photo-  
static, photographic, etc, process, which  
correctly and legibly copies and reproduces  
such public records when in the judgment  
of the commissioners court, a necessity  
exists, for the photographic duplication  
of said public records for the purpose of  
recording, preserving, and protecting same,  
or for the purpose of reducing space re-  
quired for filing, storing, and safe keep-  
ing of same.

"I have been unable to find any law  
allowing the destruction of said court

papers and records before making photostatic copies of same."

The only authority which we have been able to find authorizing a county to destroy the county court papers is Article 6574b, V.C.S., which provides in part:

"Section 1. The Commissioners Court of any county in Texas, or the governing body of any political subdivision of Texas, may, at its discretion, order, authorize and provide for the duplication of all public records by photostatic, photographic, miniature photographic, film microfilm or micro-photographic process which correctly and legibly copies and reproduces, or which forms a medium of copying or reproducing, such public records, when, in the judgment of a Commissioners Court, or of the governing body of any political subdivision of Texas, a necessity exists for the photographic duplication of said public records for the purpose of recording, preserving and protecting same, or for the purpose of reducing space required for filing, storing and safekeeping of same, or for any similar purpose.

"Sec. 4. Said photographic duplicates of all public records shall be placed in conveniently accessible files and provisions shall be made for preserving, safekeeping, using, examining, exhibiting, protecting and enlarging the same whenever requested during regular office hours. Whenever photographic duplicates of public records are so made, certified and placed, the original public records may be, by order of the Commissioners Court of the county, or of the governing body of any political subdivision of Texas, destroyed or otherwise disposed of, provided, however, that no original record shall be destroyed or otherwise disposed of unless or until the time for filing legal proceedings based on any such record shall have elapsed, and, in no event, shall any original public record be

destroyed or otherwise disposed of until said public record is at least five (5) years old; and provided further, that notice of such proposed destruction or disposition of original public records shall first be given to the State Librarian, and if such records are, in his opinion, needed for the Texas State Library, they shall be transferred thereto in the manner provided in Article 5439, Revised Civil Statutes, 1925.

"Sec. 5. Nothing in this Act shall authorize the destruction or disposition of any deed record, deed of trust record, mechanic's lien record or any minute book of any Court or any minute book of any political subdivision of Texas."

In view of the foregoing we are in agreement with your opinion that Bell County may destroy the County Court papers from the year 1905 to 1917 only if the provisions of Article 6574b are complied with.

SUMMARY

A county may destroy the County Court papers only under the provisions of Article 6574b, Vernon's Civil Statutes, which require photographic duplications to be kept on record.

APPROVED:

J. C. Davis, Jr.  
County Affairs Division

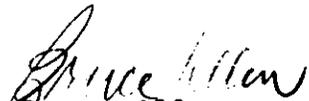
Joe R. Greenhill  
First Assistant

Price Daniel  
Attorney General

Yours very truly,

PRICE DANIEL  
Attorney General

By

  
Bruce Allen  
Assistant

BA:mw:db