

# The Texas Public Information Act: An Overview

This presentation satisfies the training requirement of  
Texas Government Code Section 552.012



## Presentation Outline

- Background of the legal requirements for open records and public information
- Applicability of the Public Information Act
- Procedures and Requirements regarding complying with a public information request
- Role of the Attorney General under the Public Information Act
- Penalties and other consequences



*Public Access  
Guidelines*



## Texas Government Code Chapter 552

### Section 552.001 Policy; Construction

(a) Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, ***it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees.*** The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

***(b) This chapter shall be liberally construed in favor of granting a request for information.***



## Public Information Defined

### Gov't Code § 552.002(a)

**“Public information”** means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- 1) by a governmental body;
- 2) for a governmental body and the governmental body:
  - a) owns the information;
  - b) has a right of access to the information; or
  - c) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- 3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.



## Public Information Defined

### Gov't Code 552.002(a-1), (a-2)

- Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.
- The definition of "public information" provided by Subsection (a) applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.



## Forms of Public Information



### Gov. Code § 552.002(b) & (c) Information recorded in any form, including

- Paper, film, or tape
- Magnetic, optical or solid state storage
- Audio or video recording
- Photographs
- Maps
- Drawings
- Emails, Internet postings, text messages, instant messages, or other electronic communications
  - Not "protected health information" as defined by Section 181.006, Health and Safety Code



## Official Business Defined

### Gov't Code § 552.003(2-a)

***“Official Business”*** means any matter over which a governmental body has any authority, administrative duties, or advisory duties.



## Governmental Body Defined

### Gov't Code § 552.003(1)

Encompasses all public entities supported in whole or in part by public funds.  
Including:

- ❖ State agencies county commissioners court
- ❖ City councils
- ❖ School district board of trustees
- ❖ Governing bodies of Special district (i.e. municipal utility districts, public utility districts)
- ❖ Local workforce development boards
  
- ❖ **Does not include the Judiciary**
  - ❖ Gov't Code §§ 552.0035, 552.003(1)(B)
- ❖ Other organizations that do not meet the definition are subject to the PIA because their enabling statute makes them subject to the PIA.



## Public Information Act Request

### Question 1

According to the Public Information Act (PIA),  
what triggers the PIA?

- A. Verbal Request
- B. Written request
- C. Neither verbal or written request
- D. Both verbal and written request



## Public Information Act Request

### ANSWER 1

#### B. Written Request

- ✓ Only Written Request trigger the PIA.
- ✓ Any Written Request triggers the PIA.
- ✓ GB can allow a requestor to use an OAG Public information Request Form.
- ✓ OAG Public Information Request Form provides a requestor the option of excluding from a request information that the GB determines is:
  - ✓ Confidential; or
  - ✓ Subject to an exception to disclosure that the GB would assert if the information were subject to the request.
- ✓ If GB does allow the requestor to use the OAG Public Information Request form, then the GB is required to post the form on the GB's website.



# Public Information Act Request

## Gov't Code § 552.234

- ❖ PIA requires request be delivered to the proper officer for public information by:
  - ❖ United States mail;
  - ❖ E-mail;
  - ❖ Hand delivered; or
  - ❖ Any other appropriate method approved by the governmental body, including fax & electronic submission through the GB's website. (Must inform the public on the required PIA sign and GB's website.)
- ❖ GB may designate one mailing address and one email address for receiving written request.
  - ❖ Must provide the designated mailing address and email address to the public upon request.
  - ❖ Must post the designated mailing address and email address on the GB's website and the required PIA sign explaining the GB's is only required to respond to written PIA request if received in the designated ways.



# How Do Requestors Know

## Gov't Code § 552.221

Requires a governmental body to post a sign containing:

- The rights of requestors
- The responsibilities of governmental bodies
- Procedures for inspecting and obtaining a copy of information



**THE PUBLIC INFORMATION ACT**

**THE PURPOSE OF THIS ACT** is to provide a means by which the public may obtain information held by governmental bodies and to provide a means by which governmental bodies may obtain information held by the public. This Act is intended to provide a means by which the public may obtain information held by governmental bodies and to provide a means by which governmental bodies may obtain information held by the public.

**RIGHTS OF REQUESTORS**

1. A requestor has the right to request information held by a governmental body.
2. A requestor has the right to request information held by a governmental body in a format that is most useful to the requestor.
3. A requestor has the right to request information held by a governmental body in a format that is most useful to the requestor.
4. A requestor has the right to request information held by a governmental body in a format that is most useful to the requestor.
5. A requestor has the right to request information held by a governmental body in a format that is most useful to the requestor.

**RESPONSIBILITIES OF GOVERNMENTAL BODIES**

1. A governmental body shall respond to a request for information held by it.
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3. A governmental body shall respond to a request for information held by it.
4. A governmental body shall respond to a request for information held by it.
5. A governmental body shall respond to a request for information held by it.

**PROCEDURES TO OBTAIN INFORMATION**

1. A requestor shall submit a request for information held by a governmental body.
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## Public Information Act Request

- ❖ Must Ask for information in existence as of the date the request was received.
- ❖ No “magic words” required.
- ❖ No requirement to label it as an open record request or public information request.
- ❖ Can be typed or handwritten.
- ❖ No signature required.
- ❖ Cannot require use of a specific form to submit request.
  - ❖ If GB allows the requestor to use the OAG PI Request Form, must post form on GB’s website.



## Do I Have To?

### Question 2

Can a requestor require a governmental body to create a record if none exists?

- A. Yes
- B. No



## Do I Have To?

### Answer 2

#### B. No

- ❖ Generally, a governmental body is not required to produce information which is not in existence at the time the request is received. Thus, a governmental body is not required to create new information in response to a request.
- ❖ However, if the request only requires programming or manipulating existing data, it is not considered a request for the creation of new information.



## Do I Have To?

### Question 3

Can a requestor require a governmental body to create new information, perform legal research or provide answers to questions?

- A. Yes
- B. No







## Hypothetical A

November 5, 2020

Ms. Sally Strawhouse, City Attorney  
City of Texasville

RE: Request for Records

Dear Ms. Strawhouse:

We represent Mismanagement Developers, Inc. We are requesting all document relating to Mismanagement Developers, Inc. Please forward those documents to us as soon as possible. We will, of course, be happy to reimburse you for any expenses associated with this request.

Sincerely,  
Harold Cheatem

THE  
LAW  
FIRM  
OF  
**Dewey,  
Cheatem  
& Howe**



## Hypothetical B

*I want all  
records involved in  
Report # 225436-96.  
Bob Strawl  
P.O. Box 22  
Hidden, TX 70000*



## Hypothetical C

**. . . John Smith's personnel file pursuant to the U.S. Freedom of Information Act, the First Amendment of the U.S. Constitution and open records laws of the European Union.**



## Hypothetical D

December 21, 2020

To Whom It May Concern,

Please send me the home address and picture of your city manager, Emily Blunt. I really want to ask that gorgeous creature out.

Sincerely,  
John Krasinski



## Hypothetical E

**. . . “any and all communications Jane Smith sends or receives over the next 30 days starting tomorrow.”**



## Hypothetical F

**. . . “How do you determine whether to file an appeal? What are the legal requirements to appeal a court’s ruling? Also, do you think I should appeal my case?”**



## Unclear or Unduly Broad Request

### Gov't Code § 552.222

- ❖ **Cannot ask** requestor why they want the information
- ❖ Can ask for :
  - ❖ Clarification
  - ❖ Narrowing the scope
- ❖ 10 business days to request an Attorney General letter ruling **is measured from the date the request is clarified or narrowed** as long as the government body was acting in good faith in requesting a clarification or narrowing of a unclear or unduly broad request
  - ❖ *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010)



## Written Request for Clarification

### Gov't Code 552.222 (d) – (g)

If the governmental body sends a written request for clarification, narrowing or additional information and does not receive a written response, the requestor's entire request is considered withdrawn.

- Must wait until the **61<sup>st</sup> day**.
- If have requestor's physical mailing address, **must** send the written request for clarification by **certified mail**.
- If received request by email, can send clarification to the same email address the request came from.
- Must tell requestor the consequences of not responding.



## Ownership of Public Information

### Question 4

Do GB officers or employees have personal or property rights to GB's public information?

- A. Yes
- B. No



## Ownership of Public Information\*

### Answer 4

#### **B. No**

- ❖ Current or former officers or employees of a GB ("temporary custodian") do not have a personal or property right to public information the officer or employee created or received while acting in an official capacity.
- ❖ This includes public information that is on the officer's or employee's privately owned devices.



## Temporary Custodian Defined

### Gov't Code §552.003(7)

**Temporary Custodian** means *an officer or employee of a governmental body who, in the transaction of official business, creates or receives public information that the officer or employee has not provided to the officer for public information of the governmental body or the officer's agent. The term includes a former officer or employee of a governmental body who created or received public information in the officer's or employee's official capacity that had not been provided to the officer for public information of the governmental body or the officer's agent.*



## Temporary Custodian Duties

### Gov't Code § 552.004(b)-(c)

- **Must either:**
  - Preserve public information on privately owned devices in its original form in a backup or archive and on the privately owned device as required by the record retention schedule; or
  - Forward or transfer the public information to the GB or a GB server.



## Temporary Custodian Duties

### Gov't Code § 552.233

- Must surrender or return the public information in your possession, custody, or control to the GB not later than the 10<sup>th</sup> day after the officer for public information or the officer's agent request the public information to be surrender or returned.
  - PIA request is considered received on the date the public information is surrendered or returned to the GB.
- Failure to surrender or return public information is grounds for disciplinary action by the GB or any other applicable penalties provided by the PIA or other laws.



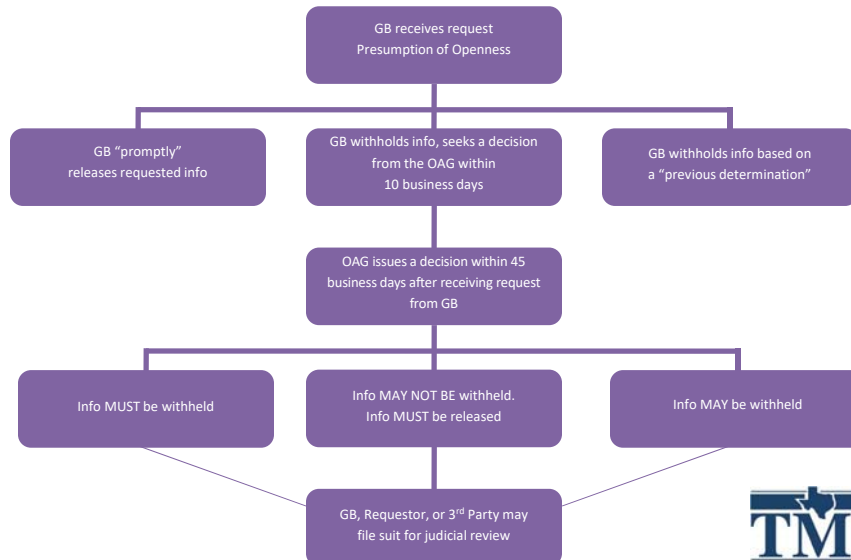
## Public Information Officer Duties

- Required to make reasonable effort to obtain public information from a temporary custodian if:
  - The information has been requested from the governmental body;
  - The public information officer is aware of facts sufficient to warrant a reasonable belief that the temporary custodian has possession, custody, or control of the requested information;
  - The public information officer is unable to comply with their duties without obtaining the information from the temporary custodian; and
  - The temporary custodian has not provided the information to the public information officer.





## Basic Process for Governmental Bodies



So You Have Received a  
Request...



## How Much Time?

### Question 5

If the governmental body is going to release the information requested, how much time does the governmental body have to comply with the request?

- A. 72 hours
- B. Promptly, depending on the circumstances, within a reasonable time
- C. Whenever the governmental body feels like it



## How Much Time?

### Answer 5

B. Promptly, depending on the circumstances, within a reasonable time

Gov't Code § 552.221

#### Release of information

- Shall promptly produce public information for inspection, duplication or both
- "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay



## How Much Time?

### Question 6

If the governmental body wants to withhold the information, how much time does the governmental body have to request an OAG decision?

- A. 10 calendar days
- B. 15 calendar days
- C. 10 business days
- D. 15 business days



## How Much Time?

### Answer 6

#### **C. 10 business days**

Gov't Code § 552.301(b)

The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10<sup>th</sup> business day after the date of receiving the written request.



## How Do You Count Business Days?

### General rules for determining 10 business days

- Start counting the next business day after receiving written request.
- “Received” = when the governmental body physically received the PIA request, not when it is opened or read.
- Saturdays, Sundays and holidays (if the governmental body's offices are closed) do not count.
- Optional holidays (if the governmental body's offices are closed during these days) or days the governmental body's offices are actually closed, do not count towards counting business days, but make sure your briefing to the AG includes information concerning any office closures.

**2017**

**Holidays:**  
 Jan 01 New Year's Day  
 Jan 16 Martin Luther King Jr. Day  
 Feb 19 Presidents' Day  
 Mar 16 Good Friday  
 Mar 20 Easter Sunday  
 Apr 08 Good Friday  
 Apr 09 Memorial Day  
 May 01 Labor Day  
 May 14 Mother's Day  
 May 15 Juneteenth  
 May 22 Independence Day  
 May 23 Juneteenth  
 May 24 Juneteenth  
 May 25 Juneteenth  
 May 26 Juneteenth  
 May 27 Juneteenth  
 May 28 Juneteenth  
 May 29 Juneteenth  
 May 30 Juneteenth  
 May 31 Juneteenth  
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 Dec 31 Independence Day



### How Do You Count Business Days?

Counting to 10 Can Be Simple

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 Written Request Received	3 1	4 2	5 3	6 4	7
8	9 5	10 6	11 7	12 8	13 9	14
15	16 10	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				



## How Do You Count Business Days?

Counting to 10 Can Be Tricky

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18 Written Request Received	19 1	20 2	21
22	23 3	24 City Closed Christmas Eve	25 City Closed Christmas Day	26 City Closed Day After Christmas	27 4	28
29	30 5	31 City Closed New Year's Eve*	1 City Closed New Year's Day	2 6	3 7	4
5	6 8	7 9	8 10	9	10	11

\*What about a "Half Optional Day Off" or a "Skeleton Crew" day? These would count towards counting business days if the governmental body's offices are open during these days.



***So it is the 10<sup>th</sup> business day and ...***

**you are going to release the information**



## Different Responses a GB Can Send to a Requestor

### Release the Information

#### Gov't Code § 552.221 (b) – (b-1)

- Providing copies of the requested information
- Inspection
- Referring to exact Internet local or URL address on a website maintained by the political subdivision and accessible to the public if the requested information is identifiable and readily available on that website.
  - However, if requestor prefers a manner other than access through the URL, you have to supply information in the manner requested.



## “Core” Public Information

### Gov't Code § 552.022(a)

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are **public information and not excepted from required disclosure unless made confidential under this chapter or other law**:

- (1) a completed report, audit, evaluation, or investigation made of, for, or by a GB, except as provided by Section 552.108;
- (2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a GB;
- (3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a GB;
- (4) the name of each official and the final record of voting on all proceedings in a governmental body;
- (5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a GB, on completion of the estimate;
- (16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege;
- (17) information that is also contained in a public court record; and
- (18) a settlement agreement to which a GB is a party.



## Different Responses a GB Can Send to a Requestor

### Additional Time Needed to Produce Records

#### Gov't Code § 552.221 (c), (d)

- If the information cannot be produced within 10 business days, notify the requestor in writing and set a date and hour within a reasonable time when the information will be available.
- Still need to meet all deadlines if seeking a ruling from the OAG.

### Programming or Manipulation Costs

#### Gov't Code § 552.231

- Not the same as "creating new information".
- Must provide specific written statement within a certain time frame.
- If the requestor does not respond to written statement within 30 days, request is considered withdrawn.



## Different Responses a GB Can Send to a Requestor

### When Estimated Charges will exceed \$40

#### Gov't Code § 552.2615

- Must provide an itemized statement detailing the estimated charges
- Must inform the requestor that the request will be considered withdrawn if he does not respond to the statement in writing within 10 business days informing GB that:
  - The requestor will accept estimated charges;
  - The requestor is modifying the request; or
  - The requestor has filed a complaint with the OAG's Cost Rules Administrator
- If an alternative, less costly method of viewing info is available, must include statement that requestor may contact the governmental body about the alternative method
- Still need to meet all deadlines for seeking a ruling from the OAG
- If requestor does not respond within 10 business days, entire request is withdrawn and GB can withdraw ruling request



## Different Responses a GB Can Send to a Requestor

### When Estimated Charges will exceed \$100

#### Gov't Code § 552.263

- You may require a deposit or bond for payment of anticipated costs.
- Must still provide a written statement required under Gov't Code § 552.2615
- If requestor fails to submit deposit or bond within 10 business days or modify the request, the request is considered withdrawn by operation of law.
  - Not enough for requestor to accept charges in writing, must actually submit payment.
- If you require deposit, bond or whole payment, then the original request is considered received on the day the requestor pays.



## How Much Can GB Charge?

### Basic Cost Provisions

#### 1 Texas Administrative Code

#### §§ 70.1 – 70.13

**Standard Copies:** \$0.10 per page

**Labor Charge:** \$15

**Overhead Costs:** 20% of labor charge

**Postage/shipping:** Any related postal or shipping expenses which are necessary to transmit via first class mail

(1) Standard paper copy	\$ 0.10 per page
(2) Nonstandard size copy	\$ 0.10 each
(A) Color	\$ 0.10 each
(B) Magnified copy	\$ actual cost
(C) Photo enlarging	\$ actual cost
(D) Tape cartridge	\$ actual cost
(E) Removable CD (CD-R/RW)	\$ 0.10 each
(F) Non-removable CD (CD-ROM)	\$ 0.10 each
(G) Digital video disc (DVD)	\$ 0.10 each
(H) CD drive	\$ actual cost
(I) Other electronic media	\$ actual cost
(J) USB flash storage	\$ 0.10 each
(K) Audio cassette	\$ 0.10 each
(L) Over-size paper (e.g. 11 in. by 17 in., graphic, blueprint, not including maps and photos using special paper)	\$ 0.10 per page
(M) Specialty paper (e.g. fabric, litigation blotting, map, photographic)	\$ actual cost
(1) Labor charges:	
(A) For programming	\$ 200.00 per hour
(B) For locating, copying and reproduction	\$ 15.00 per hour
(C) Overhead charge (20% of labor charge)	\$ 3.00
(D) Materials as materials charges	
(A) Paper cost	\$ 0.10 per page
(B) Color or film	\$ actual cost
(C) Remotes document retrieval charge	\$ actual cost
(2) Computer hardware charges:	
(A) Hardware	\$ 100.00 per CPU device
(B) Software	\$ 50.00 per CPU device
(C) Client server system	\$ 50.00 per disk base
(D) PC or LAN	\$ 50.00 per disk base
(E) Miscellaneous supplies	\$ actual cost
(F) Postage and shipping charge	\$ actual cost
(G) Photocopy (in accordance with TAC 70.90)	\$ actual cost
(H) Map (in accordance with TAC 70.90)	\$ actual cost
(I) Other costs	\$ actual cost
(3) Outsourced or contracted services (any not included in equipment costs)	\$ actual cost





## OAG Public Information Cost Estimate Model

OAG has created a cost letter generator to assist governmental bodies in creating cost estimates.

The tool is available at:

<https://www.texasattorneygeneral.gov/open-government/governmental-bodies/charges-public-information>



*So it is the 10<sup>th</sup> business day and...*

**You want to withhold the  
information**



## Withholding Information

### Question 7

Do I have to request an OAG open records letter ruling every time I want to withhold information?

- A. Yes, every time
- B. Yes, unless you have a previous determination
- C. Yes, unless it is information that you can withhold without asking for a ruling
- D. Both B & C
- E. No



## Withholding Information

### Answer 7

#### D. Both B and C

Previous determinations and information that you can withhold without asking for a ruling

A governmental body is required to ask the OAG for an Open Record Letter Ruling (ORL) in ***almost all cases*** if the governmental body wants to withhold requested documents or information.



## What is a “Previous Determination”?

### Type 1

- Most common
- Applicable to only a particular governmental body
- Applicable only to specific information or records
- Applies when the information previously ruled upon is requested again

### Type 2

- May be applicable to:
  - All governmental bodies
  - All governmental bodies of a certain type
  - Only a particular governmental body
- Applicable to a precise, clearly delineated category of information or records
- Language of ruling or decision will state it is a previous determination



## Previous Determination: ORD 684

### Open Records Decision No. 684

Identifies certain types of information a governmental body may withhold without requesting an ORL.

- ✓ Direct deposit authorization forms
- ✓ Form I-9 and attachments
- ✓ W-2 and W-4 forms
- ✓ Certified Agendas and recordings of closed meetings
- ✓ L-2 and I-3 declarations
- ✓ Certain email addresses
- ✓ Military discharge records



## When Can You Redact Without First Seeking a Ruling?

Information subject to the following exceptions may be redacted without requesting a ruling

- Gov't Code § 552.130
  - Information related to driver's license, motor vehicle title or registration, or personal identification document
- Gov't Code § 552.136
  - Credit card, debit card and access device numbers
- Gov't Code §§ 552.024 w/ 552.117, 552.1175 and 552.138
  - Personal information of certain public employees

22222	a Employee's social security number 503-11-1234	22222	a Employee's social security number [REDACTED]
b Employer identification number (EIN) 51-1234567		b Employer identification number (EIN) [REDACTED]	
c Employer's name, address, and ZIP code ACME SYSTEMS, INC. 1000 NW LINCOLN AVENUE PORTLAND, OR, 97330		c Employer's name, address, and ZIP code ACME SYSTEMS, INC. 1000 NW LINCOLN AVENUE PORTLAND, OR, 97330	
d Control number		d Control number	
e Employee's first name and initial Last name JOHN A DOE		e Employee's first name and initial Last name JOHN A DOE	



## OAG Open Records Division Forms

<https://www.texasattorneygeneral.gov/open-government/governmental-bodies/responding-pia-request/redacting-public-information>

KEN PAXTON  
Attorney General of Texas

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### Redacting Public Information

*Rules and Forms for Redacting Public Information*

Usually, a governmental body must seek a ruling from the Open Records Division before it can redact information from requested documents.

However, a governmental body can redact without requesting a ruling if:

- The governmental body has a *previous determination* for that information.
- The information is subject to:
  - Section 552.114 – student records
  - Section 552.147 – social security numbers.
- The information is subject to one of the following sections, and the governmental body provides the required form:
  - Section 552.024 – public employee's personal information held by governmental body in its capacity as employer
  - Section 552.1175 – public employee's personal information held by governmental body in non-employment capacity
  - Section 552.130 – motor vehicle record information
  - Section 552.136 – account and access device numbers
  - Section 552.138 – family violence shelter orders, victims of trafficking shelter orders, or sexual assault programs
- **NOTE:** A requester can appeal the withholding of information under these sections.

To redact information under one of the sections above, the governmental body must provide the requester with the appropriate form. You can download the forms here:

- [Forms Letter Section 552.024 \(DOC\)](#)
- [Forms Letter Section 552.1175 \(DOC\)](#)
- [Forms Letter Section 552.130 \(DOC\)](#)
- [Forms Letter Section 552.136 \(DOC\)](#)
- [Forms Letter Section 552.138 \(DOC\)](#)
- [Administrative Rules for Section of Public Information Redactions \(PDF\)](#)

Open Government Hotline  
(512) 478-4726  
Toll Free: (877) 478-4839

Public Information Act Handbook  
[Download the Handbook \(PDF\)](#)

Open Meetings Act Handbook  
[Download the Handbook \(PDF\)](#)

## Procedure for Requesting an Open Records Letter Ruling

### Gov't Code §§ 552.301, 552.305

#### Not later than the 10<sup>th</sup> business day, you must:

- Ask the OAG for a ruling and state the exceptions that apply;
- Notify the requestor in writing that you have asked for a ruling;
- Provide the requestor a copy of your letter to the OAG requesting a ruling; and
- Notify any third parties with proprietary interests in the requested information that they may submit written comments to the OAG stating why the information should be withheld (third party notice must be in the form prescribed by the OAG).



## Procedure for Requesting an Open Records Letter Ruling

### Gov't Code § 552.301(e)-(e-1)

#### Not later than the 15<sup>th</sup> business day, you must:

1. Submit written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld
2. Submit a copy of the written request for information
3. Submit a signed statement as to the date one which the request for information was received by the GB or evidence sufficient to establish that date.
4. Submit a copy (not your original) of specific information requested, or submit representative samples of the information if a voluminous amount of information was requested.
5. Label that copy of the specific information, or representative samples, to indicate which exceptions apply to which parts of the copy.
6. Send a copy of your written comments to the requestor.



## OAG PIA Electronic Filing System

<https://apps.portal.texas.gov/OAGPIAeFiling/>



Texas Attorney General

### Public Information Act Electronic Filing System



#### Welcome

Welcome to the Office of the Attorney General's Public Information Act Electronic Filing System. The OAG uses this system to accept a governmental body's request for an attorney general open records decision under the Public Information Act, Texas Government Code Chapter 552. Interested parties can also use this system to submit comments or materials for review by the OAG during the open records decision process.

**Please Note:** This system cannot be used to request public information from the OAG or any other governmental body. Requests for public information must be submitted directly to the governmental body from whom you are seeking information.

You can use this service to:

- Request an attorney general open records decision and submit new material for review, or
- Submit supplemental documents or comments related to an existing request for decision.

#### Information You Need:

- Name of Governmental Body or Interested Party
- Governmental Body PIC ID (This is the internal tracking number assigned to a public information request by a governmental body. This is not the ID number assigned by Texas.gov. Third parties should contact the Governmental Body for this number or use the name of the Governmental Body for this data field.)
- Texas.gov Request ID (if you are submitting additional material to an existing request)
- Credit card (Visa, MasterCard, Discover, or American Express) or Electronic Check information
- Microsoft® Silverlight® Plugin (This software is not required, however, it makes it easier to upload multiple files.) If you don't have Silverlight, you can install it now.



## Consequences for Missing Deadlines

- Mandatory Exceptions are not waived.
- Permissive Exceptions are waived.
- Some examples of ways to waive permissive exceptions.
  - Fail to request a ruling by 10 business day deadline;
  - Fail to raise all applicable exceptions by 10 business day deadline;
  - Fail to submit information or representative sample within 15 business day deadline;
  - Fail to submit arguments within 15 business day deadline; or
  - Fail to submit copy of request within 15 business day deadline.
- Refer to the Public Information Act Handbook for a discussion of mandatory and permissive exceptions



## Exceptions to Disclosure

### Common Exceptions

- **552.101** Information Confidential by Law
- **552.102** Confidentiality of Certain Personnel Information
- **552.103** Information Related to Litigation
- **552.104** Information Related to Competition or Bidding
- **552.107** Certain Legal Matters (Attorney-Client Privilege)
- **552.108** Certain Law Enforcement Records
- **552.110** Confidentiality of Trade Secrets, Commercial or Financial Information
- **552.111** Agency Memoranda (Attorney Work Product)
- **552.111** Agency Memoranda (Attorney Work Product)
- **552.116** Audit Working Papers
- **552.117** Confidentiality of Certain Employee Information
- **552.130** Confidentiality of Certain Motor Vehicle Records
- **552.131** Information Relating to Economic Development Negotiations
- **552.136** Confidentiality of Credit Card, Debit Card, Charge Card, and Access Device Numbers
- **552.137** Confidentiality of Certain E-Mail Addresses
- **552.147** Social Security Numbers



## After Requesting a Ruling from the OAG

- The OAG will issue an informal letter ruling in response to the governmental body's request for a ruling.
- Rulings are issued within 45 business days unless the OAG extends the deadline, in which case the ruling will be issued within 55 business days.
- The OAG will issue the ruling to the governmental body, will return the records at issue to the governmental body, and will provide a copy of the ruling to the requestor.
- All rulings are available for review on the OAG's Open Government webpage: <https://www.texasattorneygeneral.gov/open-government/governmental-bodies/previous-attorney-general-decisions-and-rulings>







## Civil Penalties

### Formal Complaints

#### Gov't Code § 552.3215

#### Declaratory Judgment or Injunctive Relief

- Complainant files written complaint with district attorney, or county attorney in county where governmental body is located:
  - *Local governmental bodies*: district attorney or county attorney for the county may bring action only in district court for that county where the governmental body is located
  - *State agencies*: Travis County District Attorney or OAG may bring action only in district court in Travis County
- Before the 31<sup>st</sup> day after the date the complaint was filed, DA or CA shall determine:
  - Whether the violation was committed
  - Whether an action will be brought
  - Notify complainant in writing of the determination
- If DA or CA determines not to bring action or it has been 90 days since the complaint was filed, the complainant can file complaint with the OAG.



## Civil Penalties

### Writ of Mandamus

#### Gov't Code § 552.321



- Used to compel a GB or an entity to make information available for public inspection
- Filed by requestor or OAG
- Examples of potential mandamus situations
  - GB refuses to provide copies or access to public information
  - GB refuses to request OAG ruling
  - GB refuses to release information as required by an unchallenged OAG ruling



## Criminal Penalties

### Destruction, Removal, or Alteration of Public Information Gov't Code § 552.351

- A person commits an offense if the person willfully destroys, mutilates, removes without permission as provided by this chapter, or alters public information.
- Fine not less than \$25 or more than \$400 and /or county jail not less than three days or more than three months
- Misdemeanor offense



"I'm quite certain I'm not going to be able to produce that document."



## Criminal Penalties

### Failure or Refusal of Officer for Public Information to Provide Access to or Copying of Public Information Gov't Code § 552.353

- Fails or refuses to give access, permit copying, or provide copies of public information with criminal negligence
- Fines not more than \$1,000 and/or county jail for not more than six months
- Misdemeanor Offense
- Constitutes official misconduct
- Affirmative defense against prosecution
  - Reasonable belief that public access to information not required and relied on
    - court order
    - court opinion, or
    - OAG decision
  - OAG decision sought and no decision issued
  - Suit filed in Travis County challenging OAG decision and suit pending
  - Officer's agent reasonably relied upon written instruction from the officer of public information



## Criminal Penalties

### Distribution or Misuse of Confidential Information

#### Gov't Code § 552.352(a)

- Officer or employee knowingly:
  - Uses confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to the law that permitted the officer or employee to obtain access to the information
  - Permits inspection of the confidential information by a person who is not authorized to inspect the information
  - Discloses the confidential information to a person who is not authorized to receive the information
- Fine not more than \$1,000 and/or county jail for not more than six months
- Constitutes official misconduct

**CONFIDENTIAL  
INFORMATION**



## Open Government Training

#### Gov't Code § 552.012

- **One-hour minimum requirement:** must have a minimum of one hour of PIA training, but no more than two hours
- **Compliance deadlines:** Officials who are elected or appointed have 90 days within which to complete the required training.
- **Who must obtain the training?** The statute requires the top elected and appointed officials from governmental bodies subject to the PIA to complete a PIA training course.
- Additionally, designated public information coordinators are required to complete a PIA training course.



## Resources

### TML

[www.tml.org](http://www.tml.org)  
(512) 231-7400

### OAG's Open Government Hotline

(877) OPEN TEX  
(512) 478-6736

### OAG Open Government Training

<https://texasattorneygeneral.gov/og/open-government-training>

### Cost Questions

#### OAG Cost Rules Administrator

(888) OR-COSTS  
(512) 475-2497

### OAG website

<http://www.texasattorneygeneral.gov>

### Texas State Library & Archives

#### Record Management

<https://www.tsl.texas.gov/slrn>

