

PUBLIC INFORMATION ACT

Riley Fletcher Basic Municipal Law Seminar
Austin, TX Feb. 5-6, 2026
Mike Hayes, City Attorney, Pflugerville, TX

1

1

DISCLAIMER... YES A DISCLAIMER OR 2....

- **Not comprehensive!** – download statute, bookmark it, read and reread it!
- **El Paso and Friday afternoon “huddle”** – it can be a “bear”, consuming, overwhelming
- **Bring in experts if needed!!**
- **We’re getting through slides! Handouts!**

2

2

BASICS OF THE PIA (CH. 552, TX GOV'T CODE)

- 1) Scope
- 2) Requests (ORRs)
- 3) Responses
- 4) Interesting issues / New Legislation
- 5) Better practices / Resources

3

3

SCOPE

Section 552.001, Texas Gov't Code - Policy

(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. The [PIA] shall be **liberally construed to implement this policy**. [AND] (b) “**...liberally construed to grant requests**”

4

4

SCOPE (CONT'D) - DEFINITIONS

"PUBLIC INFORMATION" (552.002) – written, produced, collected, assembled, or maintained under a law or ordinance or in connection with official business:

1. **BY a governmental body**
2. **FOR a governmental body** and it:
 - **owns** the information;
 - has **right of access** to the information; **OR**
 - **spends 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 an official capacity and the information pertains to official business

5

5

SCOPE (CONT'D) – "PUBLIC INFORMATION"

BOTTOM LINE – if your city possesses or spent money to produce, it's Public Information!

PRACTICE POINTER – add right of access to contracts, response timing, etc.!

6

6

SCOPE (CONT'D) - DEFINITIONS

Categories of Public Information (552.022) – “without limiting...”!!!;
MUST RELEASE UNLESS EXCEPTION; the following are all releasable:

- Completed report, audit, evaluation, investigation
- Employee information – salary
- Documents with expenditure of funds, estimates
- Official names, voting record
- Policy statements, interpretations
- Staff manuals
- Attorney fee bills (**PP**: review!)
- Settlement agreements (**PP**: add “recital” type language)

7

7

SCOPE (CONT'D) - DEFINITIONS

- **“Public Information”** – VERY, VERY BROAD!
- Applicable to officers and employees
- YES (!!!), includes electronic communications for official business on devices

8

8

SCOPE (CONT'D) - DEFINITIONS

PRACTICE POINTER –

Meeting notes = OPEN

Texts = OPEN → use official email address/city server

9

9

SCOPE (CONT'D) - DEFINITIONS

“Temporary Custodians” (552.003, .233) – ALL OF US!

- current or former official or employee
- requires PIO to acquire info
- No personal/property rights to info
- Required (duty) to preserve & provide within 10 business days; personal devices too!
- Criminal penalties (**PP: CRIMINAL!!!**)

10

10

REQUESTS (ORR)

- **Must be written** – PIA only triggered with written ORR (552.234, .301(a)); **PRACTICE POINTER** – work with “verbals”!
- **Council may designate specific mailing or email address** (552.234(c))
- **Information must exist as of ORR date** – no requirement to produce nonexistent information (eg, tax analysis); not prospective; no standing requests

PRACTICE POINTER – create document? *Eg, salary info?*

11

11

REQUESTS (ORR) (CONT'D)

- **No “magic words” required** – ORR doesn’t need to cite law, FOIA, etc.
- **Specific form?** – city may use AG’s form (552.235); provides option to exclude confidential info; must link from website

12

12

REQUESTS (ORR) (CONT'D)

2025 Legislation (SB 944; HB 4214) –

- Cities must notify AG of current mailing or email address each year
- AG must maintain publicly accessible database on website

13

13

RESPONSES

- **Uniform Treatment** – must treat all requests uniformly (552.223) – “media schmedia”
- **Can't ask!** – no inquiry into reasons/motives; can't ask “Why?”, “For what purpose?”, “Are you sure?” (552.222); but.....
- **Permissible inquiries?**

14

14

RESPONSES (CONT'D)

Permissible inquiries (552.222):

- Establish “proper identification” – anonymous? What if incarcerated?
- If unclear, seek clarification
- Large amount of information – may discuss narrowing, “but not purpose”!

15

15

RESPONSES (CONT'D) – INITIAL Q'S

- Understand ORR?
- Is ORR really an ORR? Other gov't entity; statute (foster care, military)
- Is requested info “public information”? Or a Q?
- Who has the info? Current or former official/employee?
- Is info responsive to ORR? (**PP**: review, double check!)

16

16

RESPONSES (CONT'D) - QUESTIONS

- Does Requestor have **special right of access**?
Employee, Councilmember? *(to be cont'd)*
- Any applicable **exceptions**? **76!**
- Apply? **Voluntary disclosure**; eg, 552.107/atty-client; but...release for one is release for all!
Approval from Council?

17

17

RESPONSES (CONT'D) - EXCEPTIONS

- **Confidential under another law? (552.101)**
Privacy? Eg, Common Law Privacy → 1. Highly intimate or embarrassing?; & 2) whether any legitimate public interest in release?
- **Personnel file** – DOB, tax info, beneficiaries
(552.102)

18

18

RESPONSES (CONT'D) - EXCEPTIONS

- **Litigation/settlement negotiations** – pending/"reasonably anticipated"? (552.103)
- **Competitive matters - Bidding (552.104) & Property (552.105)**
- **Legal matters** – atty/client (552.107)

19

19

RESPONSES (CONT'D) - EXCEPTIONS

- **Law enforcement/prosecutor** – detection, investigation, prosecution if would interfere, no conviction, threat, Atty/Client (552.108); Discretionary; must release if deceased/incapacitated/consent
- **Motor vehicle info (552.101 + Transp Code)**
- **DL info and numbers, license plate, VIN (552.130)**

20

20

RESPONSES (CONT'D) - EXCEPTIONS

- **Financial accounts** – credit cards, bank account? (552.136)
- **Email address of public?** (552.137) – used to communicate; may consent; DNA to Ks
- **Employees/officials; Peace officer – personal info?** (552.117, .1175)

21

21

RESPONSES (CONT'D) - #1

- **Promptly produce** – “as soon as possible under the circumstances, that is within a reasonable time, without delay” (552.221(a))
- Must produce within 10 business days OR, respond to Requestor & set specific date/hour within a reasonable time for release (552.221(d)); “business days”/state holiday!
 - “Produce” – inspect, duplicate, or both; mail if fees paid
 - Cite to website – but requestor preference

22

22

RESPONSES (CONT'D) - #1

Fees – See 552.261-268

- If > 50 pages, may apply labor costs (but not for atty time)
- If > \$40, must provide estimate; ORR considered withdrawn if no response
- Cities authorized to apply charges set by AG; may increase rate by 25% or request increase from AG; see *AG's Cost Estimate Model* (AG website)

23

23

RESPONSES (CONT'D) - #2

General Rule = Request AG opinion – must request to withhold, whether exception applies; may require electronic submission (552.3031)

Withholding information without requesting a ruling –

- Certain sections of the PIA permit redaction without ruling
- Previous determinations
- Requestor agrees to redaction (**PP – put in writing!!!**)

24

24

RESPONSES (CONT'D) - #2

- **Request (letter) to AG** – 10 business days for request + exceptions; 15 business days for argument; **PRACTICE POINTER** – submit both together!
 - Letter – specific information required; eg, include dates!
 - Copy sent to Requestor – without records!
 - If date missed? Presumed open unless “compelling reason” to withhold (552.302); mandatory exceptions not waived – eg, confidential by law, 3rd party privacy
 - AG – “*Responding to a PIA Request*” webpage; “*Best Writing Tips*” for effective briefs; **PP** - use AG’s opinions/request letters

25

25

RESPONSES (CONT'D) - #3

Withhold based upon Previous Determination –

Previous determination? An exception -

- Allows withholding/redacting without AG ruling; eg, home addresses, SS#s, etc., VIN, financial accounts, family violence (see **ORD No. 684** (2009))
- Previous determination by AG – previous determination for your city for exact information

26

26

INTERESTING ISSUES

- **“Vexatious” requestors** – frequent or voluminous; council may adopt yearly/monthly time limits (552.275)
- **Criminal charges** - Civil AND Criminal Penalties; Requestors, DA, AG; misdemeanor &/or 6 months in jail; failure to release **OR** release of confidential info **OR** destruction!

27

27

INTERESTING ISSUES (CONT'D)

- **Special right of access** – to own info; can't use privacy interest to withhold!
- **Release to Councilmember** – YES!; “Special right of access” – for “official capacity” (AG Op. JM-119); not a “release” (*to be cont'd*)
- **Peers?** – County, State, or Feds?

28

28

NEW LEGISLATION - 2025

- **License Plate Number** – 552.130; not confidential where captured by Law Enforcement video (HB 1893)
- **Cybersecurity Measures** – Exception to disclosure; 552.1391 (HB 3112)
- **Fraud Detection & Deterrence Measures** – Exception to disclosure; 552.164 (SB 765)
- **Responses** – 552.221; must notify requestor if no information or previous determination within 10 business days (HB 4219)

29

29

NEW LEGISLATION – 2025 (CONT'D)

- **Requests** – 552.234; notice to AG of addresses, AG's database (HB 4214)
- **AG Opinion** – 552.301; must provide "specific" exceptions (HB 4219)
- **Failure to Respond** – 552.328; complaint to AG - training, no fee, compelling reason (HB 4219)
- **Special Right of Access** – 552.403; codifies common law?; confidentiality agreement (HB 4310)

30

30

BETTER (BEST?) PRACTICES?

- **Transparency!** – embrace it! Obligation, costs \$; uncomplicate/simplify/make process easy!
- **Train** – and train and train! AG may require!
- **PIO** City Manager; Dept Heads are agents
- **Policy/procedures** – set out expectations!
- **Remind** – and remind and remind...and train!

31

31

RESOURCES

- **Open Government Hotline** – Texas AG
- Texas AG's **Public Information Act Handbook 2024** (website)
- **Texas Public Information Act Made Easy (2025)** – TML (website)
- **Cost Flowchart / List of Exceptions** (handouts)

32

32

Good luck!
Thank you!

33

33