



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 18, 2015

Ms. Ann-Marie Sheely
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR2015-09625

Dear Ms. Sheely:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 563974.

The Travis County Information Technology Service (the "county") received a request for electronic communications between two named individuals. You claim the submitted information is not subject to the Act. Alternatively, you claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.117, and 552.1175 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.¹

You contend the submitted information is not subject to the Act. The Act is applicable only to "public information." *See* Gov't Code § 552.021. Section 552.002(a) defines "public information" as

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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.

Id. § 552.002. Thus, virtually all the information in a governmental body's physical possession constitutes public information and is subject to the Act. *Id.*; see Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You state the submitted information consists entirely of personal e-mails and calendar entries. You also indicate the submitted information does not pertain to official business of the county. Based on your representations and our review of the submitted information, we find the majority of the submitted information, which we have marked, does not constitute public information for purposes of section 552.002 of the Government Code.² See Open Records Decision No. 635 at 4 (1995) (section 552.002 not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). Therefore, this information is not subject to the Act, and the county need not release it in response to this request. However, we conclude the remaining e-mails and the remaining calendar entry were written, produced, collected, assembled, or maintained in connection with the transaction of official business by an employee of the county in her official capacity. Thus, the e-mails and the calendar entry at issue are subject to the Act. Accordingly, we will address your arguments against disclosure of this information.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

request that this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a)(1). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for the information is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, a governmental body must withhold information under section 552.117(a)(1) on behalf of a current or former official or employee only if the individual made a request for confidentiality under section 552.024 prior to the date on which the request for information was made. Accordingly, if the individual whose information is at issue timely requested confidentiality pursuant to section 552.024, the county must withhold the information we have marked under section 552.117(a)(1).

Section 552.1175 protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). Some of the remaining information pertains to a peace officer and is held in a non-employment capacity. Thus, to the extent the officer at issue elects to restrict access to his information in accordance with section 552.1175(b), the county must withhold the information we have marked under section 552.1175. Conversely, if the officer at issue does not elect to restrict access to his information in accordance with section 552.1175(b), the county may not withhold this information under section 552.1175 of the Government Code.

In summary, the county is not required to release the submitted information that is not subject to the Act. If the individual whose information is at issue timely requested confidentiality pursuant to section 552.024 of the Government Code, the county must withhold the information we have marked under section 552.117(a)(1) of the Government Code. To the extent the officer whose information is at issue elects to restrict access to his information in accordance with section 552.1175(b), the county must withhold the information we have marked under section 552.1175 of the Government Code. The county must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cristian Rosas-Grillet', written in a cursive style.

Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/cbz

Ref: ID# 563974

Enc. Submitted documents

c: Requestor
(w/o enclosures)