



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 14, 2016

Mr. Daniel W. Ray  
Hunt County Civil Attorney  
Scott, Ray & Sullivan PLLC  
P.O. Box 1353  
Greenville, Texas 75403-1535

OR2016-27636

Dear Mr. Ray:

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# 637635.

The City of Greenville (the "city"), which you represent, received a request for all phone records of a named individual within a specified period of time. You state you have released some information to the requestor. You claim some of the requested information is not subject to the Act. Additionally, you claim the submitted information is excepted from disclosure under section 552.117 of the Government Code.<sup>1</sup> We have considered t your arguments and reviewed the submitted information.

Initially, we note the requestor only seeks phone records of the named individual within a specified period of time. We note the submitted information contains information beyond this information. Accordingly, the submitted information that pertains to information beyond this period of time, which we have marked, is not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the city is not required to release such information in response to this request.

Next, you argue some of the requested information is not subject to the Act. The Act is applicable only to "public information." See Gov't Code §§ 552.002, .021.

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<sup>1</sup>Although you also raise section 552.101 of the Government Code in conjunction with section 552.117 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. See Open Records Decision No. 676 at 1-2 (2002).

Section 552.002(a) defines “public information” as 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. Information is “in connection with the transaction of official business” if it 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 government function on behalf of a governmental body, and pertains to official business of the governmental body.” *Id.* § 552.002(a-1). 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 explain the information you marked consists of personal phone calls that have no connection with the city’s business and constitute incidental use of the city’s resources. We understand you to assert the use of the city’s resources to create and maintain the information at issue was *de minimis*. See Open Records Decision No. 635 (1995) (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). Based on your representations and our review of the information at issue, we agree the information you marked does not constitute “information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business” by or for the city. See Gov’t Code § 552.002. Thus, the information you marked is not subject to the Act and need not be released in response to the present request for information. We will address the remaining argument against disclosure of the information that is subject to the Act.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home address, home telephone number, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with section 552.024

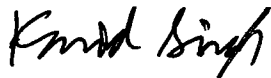
and 552.1175 of the Government Code.<sup>2</sup> *Id.* § 552.117(a)(2). Upon review, we find the city must withhold the information you have marked under section 552.117(a)(2) of the Government Code.

In summary, the information you marked is not subject to the Act and need not be released in response to the present request for information. The city must withhold the information you have marked under section 552.117(a)(2) of the Government Code. The city must release the remaining responsive 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](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,



Kavid Singh  
Assistant Attorney General  
Open Records Division

KVS/bhf

Ref: ID# 637635

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>Section 552.117(a)(2) adopts the definition of peace officer found in article 2.12 of the Code of Criminal Procedure.