



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 19, 2017

Ms. Akilah Mance  
Counsel for City of Stafford  
Olson & Olson, LLP  
Wortham Tower  
2727 Allen Parkway, Suite 600  
Houston, Texas 77019-2133

OR2017-08370

Dear Ms. Mance:

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# 654035 (Stafford 17-001).

The City of Stafford (the "city"), which you represent, received a request for text messages and e-mails from named officials for a specified period of time. You state you have released a majority of the information to the requestor. You claim the submitted information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

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

[I]nformation 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(a). 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 argue a portion of the submitted information contains communications that are not in connection with the transaction of official business of the city; rather, they are personal communications. 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). Upon review of the information at issue, we agree it 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. You also argue a portion of the submitted information contains computer information which is not subject to the Act. In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. You state the submitted password has no significance other than its use as a tool for the maintenance, manipulation, or protection of public information. Thus, we conclude the remaining information is not “public information” for the purposes of the Act. Accordingly, the submitted information is not subject to the Act, and the city is not required to release this information in response to the instant request for information.<sup>1</sup>

---

<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted 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,

A handwritten signature in cursive script, appearing to read "D. Michelle Case", followed by a horizontal flourish.

D. Michelle Case  
Assistant Attorney General  
Open Records Division

DMC/eb

Ref: ID# 654035

Enc. Submitted documents

c: Requestor  
(w/o enclosures)