



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 1, 2017

Mr. Cary D. Kirby
County Attorney
County of Angelina
P.O. Box 1845
Lufkin, Texas 75902-1845

OR2017-27389

Dear Mr. Kirby:

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# 686303.

Angelina County (the "county") received a request for the cellular telephone bills of a named judge during a specified time period . You assert the submitted information is not subject to the Act. Alternatively, you assert the submitted information is excepted from disclosure under sections 552.101, 552.109, 552.117, 552.136 and 552.137 of the Government Code. We have considered your arguments and reviewed the submitted information.

You assert the submitted information does not consist of public information that is subject to disclosure under the Act. The Act is applicable only to "public information." *See Gov't Code §§ 552.002, .021.* Section 552.002(a) reads as follows:

(a) In this chapter, "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.

Id. § 552.002(a). Section 552.002(a-1) also provides the following:

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.

Id. § 552.002(a-1). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and, thus, is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The Act also encompasses information that a governmental body does not physically possess, if the information is collected, assembled, or maintained for the governmental body, and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a)(2); *see* Open Records Decision No. 462 at 4 (1987).

You assert the submitted information does not consist of public information because it does not relate to the transaction of official business of the county. You explain the judge at issue does not receive compensation from the county for the costs of the cellular telephone at issue or cellular telephone service. Additionally, you state the submitted cellular telephone bills do not relate to the business of the county. Based on your representations and our review, we agree the submitted information does not constitute "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for the county. *See* Gov't Code § 552.021; *see also* 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). Accordingly, the submitted information is not subject to the Act and the county is not required to release it in response to this request.¹

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/>

¹As we are able to make this determination, we do not address your remaining arguments against disclosure of this information.

[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 'S. Pounds', written in a cursive style.

Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/gw

Ref: ID# 686303

Enc. Submitted documents

c: Requestor
(w/o enclosures)