



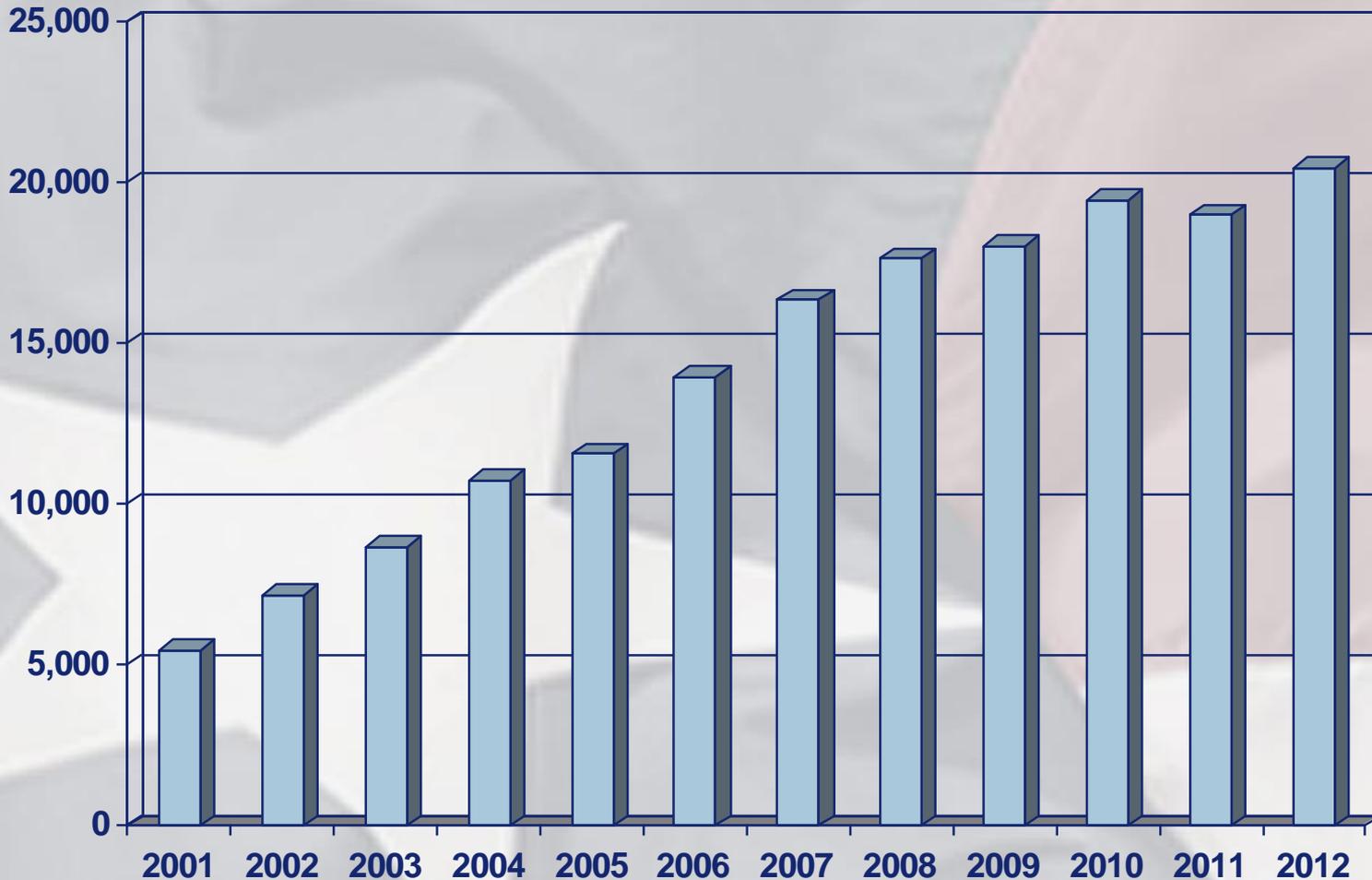
ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

# ***The Texas Public Information Act – An Overview and Update***

Amanda Crawford  
Assistant Attorney General  
Chief, Open Records Division



# ***Open Records Letter Rulings Issued in Fiscal Years 2001-2012***





# ***Public Information Defined***

## **Gov't Code § 552.002(a)**

“Public Information” means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- 1) by a governmental body; or
- 2) for a governmental body and the governmental body owns the information or has a right of access to it.



# ***Forms of Public Information***

## **Gov't Code § 552.002(b)-(c)**

- ▶ Information in any form, including:
  - Paper
  - Microfilm or microfiche
  - Computer data
  - E-mail
  - Audio or video recordings
  - Photographs
  - Maps
  - Drawings

In other words . . . information recorded in any format.



# ***Common Exceptions to Disclosure***

- ▶ **552.101** Information Confidential by Law
- ▶ **552.103** Information Related to Litigation
- ▶ **552.104** Information Related to Competition or Bidding
- ▶ **552.107** Certain Legal Matters (Attorney-Client Privilege)
- ▶ **552.108** Certain Law Enforcement Records
- ▶ **552.110** Trade Secrets/Commercial Information
- ▶ **552.111** Agency Memoranda
- ▶ **552.116** Audit Working Papers
- ▶ **552.137** Confidentiality of Certain E-Mail Addresses



## **Gov't Code § 552.139**

Exception: Confidentiality of government information related to security or infrastructure issues for computers

- ▶ Makes confidential information related to network security, or the design, operation or defense of a computer network
  - Computer network vulnerability report
  - Any other vulnerability assessment related to computer hardware, software, etc.
  
- ▶ May be released to a bidder if the governmental body determines providing the information is necessary for the bidder to provide an accurate bid



## ***Case Law Update***

- ▶ *Adkisson v. Abbott*, No. D-1-GN-10-002120 (200<sup>th</sup> Dist. Ct., Travis County, Tex., Aug. 7, 2012), *appeal filed*, 03-12-00535-CV (Tex. App.—Austin, Aug. 8, 2012).
  - **At issue:** Are e-mails concerning public business sent by a public employee or official from a private account considered “public information” under the PIA?
  - **Holding:** Trial court granted the OAG’s motion for summary judgment, holding private e-mails of a public official concerning public business are “public information” for purposes of the PIA.
  - **Please note:** The trial court’s holding has been appealed. Stay tuned...



# ***Recent Developments***

- ▶ PIA DIY
- ▶ Case law update
- ▶ Legislative update
- ▶ eFiling
- ▶ Public Information Cost Estimate Model



## ***When can you “do-it-yourself”?***

- ▶ ***Remember:*** If you want to withhold information from the public, you must request a ruling from the Attorney General’s Office.
  
- ▶ Withholding information without requesting a ruling
  - Gov’t Code § 552.130
    - Information related to driver’s license or personal identification document
  - Gov’t Code § 552.136
    - Credit card, debit card and access device numbers
  - Gov’t Code §§ 552.024, 552.1175 and 552.138
    - Personal information of certain public employees



## **ORD 684**

- ▶ Open Records Decision No. 684 is a previous determination applicable to all Texas governmental bodies that covers several types of information
  - Direct deposit authorization forms
  - Form I-9 and attachments
  - W-2 and W-4 forms
  - Certified agenda and tape of closed meeting
  - Fingerprints
  - L-2 and L-3 declarations
  - Certain email addresses
  - Military discharge records



# Open Records Division Forms

[www.texasattorneygeneral.gov/openlord\\_forms.shtml](http://www.texasattorneygeneral.gov/openlord_forms.shtml)

[Home](#) | [Child Support](#) | [Consumer Protection](#) | [Crime Victims](#) | [Criminal Justice](#) | [Open Government](#) | [Opinions](#) | [Senior Texans](#)  
[How to Request Information](#) | [Open Records Letter Rulings](#) | [FAQs](#) | [Charges for Public Info.](#) | [Publications](#) | [Complaints & Enforcement](#)

Google™ Custom Search

Search Open Gov't

[Open Records Decisions](#)

[ORDs: Overruled, Modified, Affirmed, Withdrawn](#)

[Open Records Letter Rulings](#)

[Open Records Questions](#)

[Open Records Memorandum Rulings](#)

[Previous Determinations](#)

[Public Information Cost Estimate Model](#)

[Redacting Public Information \(Rules and Forms\)](#)

[2011 Legislative Updates](#)

## Redacting Public Information Rules and Forms

A governmental body that wishes to redact information from data or documents it is releasing to the public must generally seek the decision of the attorney general.

A governmental body need not request an attorney general decision if it is relying on a [previous determination](#) to redact information. For more information about previous determinations, please see [Open Records Decision No. 673 \(2001\)](#) and pages 36-38 of the [2010 Public Information Handbook](#).

A governmental body need not request an attorney general decision if it is redacting information pursuant to one of the five sections of the Public Information Act that give a governmental body explicit permission to redact information without requesting an attorney general decision. Those five sections are 552.024, 552.130, 552.136, 552.138 and 552.1175. The Rules and Forms applicable to redaction under those sections of the Public Information Act are provided below.

### Rules

- [Texas Administrative Code, Title 1, Chapter 67, Review of Public Information Redactions](#)

\*Amendments to these rules have been proposed in order to extend their application to a governmental body's redaction of information under sections 552.130 and 552.136. The proposed amendments were published in the Texas Register on October 21, 2011 at 36 Tex. Reg. 7055.

### Forms

The following documents are provided in MS Word.

- [Form Letter for Section 552.024 \(public employee's personal information held by governmental body in its capacity as employer\)](#)
- [Form Letter for Section 552.130 \(motor vehicle records\)](#)
- [Form Letter for Section 552.136 \(account and access device numbers\)](#)
- [Form Letter for Section 552.138 \(family violence shelter center and sexual assault program information\)](#)
- [Form Letter for Section 552.1175 \(public employee's personal information held by governmental body in non-employment capacity\)](#)

[Open Government Training](#)  
[Open Government Resources](#)  
[Open Government Conferences](#)  
[Request OAG Documents](#)  
[Open Records Reports](#)  
[Login to file Open Records Reports](#)  
[Charges for Public Information](#)

#### Publications:

[Public Information Act Handbook](#)  
[Open Meetings Act Handbook](#)  
[Public Information Act Made Easy](#)  
[Open Meetings Act Made Easy](#)  
[Traps for the Unwary](#)

#### Statutes:

[Public Information Act](#)  
[Open Meetings Act](#)  
[Cost Rules](#)  
[Other PIA Rules](#)



## ***Case Law Update***

- ▶ *Tex. Dep't of Pub. Safety v. Cox Tex. Newspapers, L.P. & Hearst Newspapers, L.L.C., No. 09-0530, slip op. (Tex. July 1, 2011), available at [www.supreme.courts.state.tx.us/historical/2011/jul/090530.pdf](http://www.supreme.courts.state.tx.us/historical/2011/jul/090530.pdf)*
  - **At issue:** Whether travel vouchers, defined as “core” public information under section 552.022(a)(3), may be withheld if their release may lead to physical harm.
  - **Holding:** Freedom from physical harm is an independent interest protected under law. Thus, information may be withheld under the common law if disclosure would create a substantial threat of physical harm.



## ***Case Law Update***

- ▶ *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010).
  - **At issue:** The dates of birth of public employees held in the comptroller's database.
  - **Holding:** The dates of birth of public employees are confidential under section 552.102(a) of the Government Code.
  - **Please note:** Decision only applies to the dates of birth of public employees, not private citizens.



# 82<sup>nd</sup> Texas Legislature

- ▶ **SB 1638** (W. Davis)
  - Relating to the exception of certain personal information
  - Amends Gov't Code §§ 552.024, .117, .1175, .130, and .139
  - Emergency contact information must now be withheld under sections 552.117 and .1175
  - Motor vehicle information issued by another state or country must now be withheld under section 552.130.
  - A copy of an identification badge issued to a public official or employee is confidential under section 552.139.



# 82<sup>nd</sup> Texas Legislature

- ▶ **HB 2866** (Harper-Brown)
  - Relating to the electronic submission of certain documents to the OAG; imposing certain fees.
  - Adds Gov't Code §552.309 – When a request or other document is required to be submitted to the OAG within a specified period, the requirement is met in a timely fashion if the document is submitted through the OAG's designated electronic filing system within that period.
  - Use of e-filing system is ***optional***.
  - **Please note:** Faxes and other electronic transmissions are not, and have never been, permitted under section 552.308.
  - <https://apps2.portal.texas.gov/OAGPIAeFiling/>



# PIA Electronic Filing System



Texas Attorney General

## Public Information Act Electronic Filing System



### Welcome

Welcome to the Office of the Attorney General's Public Information Act Electronic Filing System. The OAG uses this system to accept a governmental body's request for an attorney general open records decision under the Public Information Act, Texas Government Code Chapter 552. Interested parties can also use this system to submit comments or materials for review by the OAG during the open records decision process.

**Please Note:** This system cannot be used to request public information from the OAG or any other governmental body. Requests for public information must be submitted directly to the governmental body from whom you are seeking information.

You can use this service to:

- Request an attorney general open records decision and submit new material for review; or
- Submit supplemental documents or comments related to an existing request for decision.

#### Information You Need:

- Name of Governmental Body or Interested Party
- Governmental Body PIC ID (This is the internal tracking number assigned to a public information request by a governmental body. This is not the ID number assigned by Texas.gov. Third parties should contact the Governmental Body for this number or use the name of the Governmental Body for this data field.)
- Texas.gov Request ID (if you are submitting additional material to an existing request)
- Credit card (Visa, MasterCard, Discover, or American Express) or Electronic Check information
- Microsoft® Silverlight® Plugin (This software is not required; however, it makes it easier to upload multiple files.) If you don't have Silverlight, you can install it now.

The system has detected that your system has this software. There is no action required on your part to use Silverlight to upload your files.

[Submit New Materials](#)

[Submit Supplemental Materials](#)

For questions about requesting an attorney general open records decision or submitting materials for review by the OAG, please contact the Attorney General's Open Government Hotline at 1-877-673-6839.

For technical assistance with this application, please call 1-877-452-9060 or send an email to [Texas.gov Help](#).



# ***Public Information Cost Estimate Model***

- ▶ In December 2009, our office created a cost letter generator, the Public Information Cost Estimate Model.
- ▶ Assists governmental bodies in creating cost estimates.
- ▶ The tool is available at:
  - [www.texasattorneygeneral.gov/open/cost\\_page.shtml](http://www.texasattorneygeneral.gov/open/cost_page.shtml)



# Public Information Cost Estimate Model



Contrast: High | Links | Site Index | Español | Contact Us |

## ATTORNEY GENERAL OF TEXAS GREG ABBOTT

- [Home](#) | [Child Support](#) | [Consumer Protection](#) | [Crime Victims](#) | [Criminal Justice](#) | [Open Government](#) | [Opinions](#) | [Senior Texans](#)
- [How to Request Information](#) | [Open Records Letter Rulings](#) | [FAQs](#) | [Charges for Public Info.](#) | [Publications](#) | [Complaints & Enforcement](#)

- 
- 
- [Open Records Decisions](#)
  - ORDs: Overruled, Modified, Affirmed, Withdrawn**
  - [Open Records Letter Rulings](#)
  - [Open Records Questions](#)
  - [Open Records Memorandum Rulings](#)
  - [Previous Determinations](#)
  - Public Information Cost Estimate Model**
  - [Redacting Public Information \(Rules and Forms\)](#)
  - [2011 Legislative Updates](#)

### Public Information Cost Estimate Model

Date request was received:

Government Body's Information		Requestor's Information	
Agency Name:	<input type="text"/>	<input type="radio"/> Mr. <input type="radio"/> Ms.	
Contact Name:	<input type="text"/>	First/Last Name:	<input type="text"/>
Address:	<input type="text"/>	Address:	<input type="text"/>
City:	<input type="text"/>	City:	<input type="text"/>
State/Zip:	<input type="text"/>	State/Zip:	<input type="text"/>

#### Itemization of costs:

- Did the requestor ask for **standard paper copies**? Yes  | No
- Did the requestor ask for copies of **nonstandard documents** (e.g., oversized paper, DVD, or VHS tape)? Yes  | No
- Add labor costs? Yes  | No
- Are **overhead charges** applicable? Yes  | No
- Are **computer resource charges** applicable? Yes  | No
- Are other charges applicable (e.g., remote document retrieval)? Yes  | No
- Will there be postage? Yes  | No
- Would it cost the requestor less money to **inspect the information** than to receive copies? Yes  | No
- Would it cost the requestor less money if the request was **narrowed or clarified**? Yes  | No



# **Questions?**

## **OAG's Open Government Hotline**

(877) OPEN TEX

(512) 478-6736

## **Cost Questions**

OAG Cost Rules Administrator

(888) OR-COSTS

(512) 475-2497

## **OAG website**

[www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov)