



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 14, 2016

Mr. Stephen D. Gates
First Assistant City Attorney
City Attorney's Office
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR2016-23150

Dear Mr. Gates:

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# 636473 (Midland ID# 20650).

The City of Midland (the "city") received a request for information pertaining to a specified investigation and specified city police department policies and procedures. You state you have released some information. 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 552.108 of the Government Code. We have considered your arguments and reviewed the submitted information.

You argue the submitted information is not public information subject to the Act. The Act is applicable only to "public information." Gov't Code §§ 552.002, .021. Section 552.002(a) defines "public information" as information that is:

(a) . . . 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

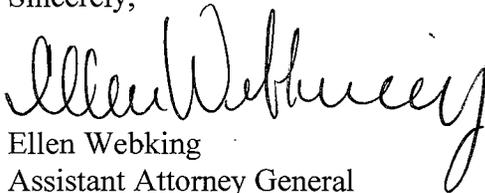
(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). Thus, almost all of the information in a governmental body's physical possession constitutes public information and is subject to the Act. *See id.*; *see also* Open Records Decision No. 549 at 4 (1990), 514 at 1-2 (1988). You assert the submitted information consists of personal communications between individuals not acting in their official government capacities and do not pertain to the transaction of the city's official business. Based upon these representations and our review of the submitted information, we agree the submitted information does not constitute public information for purposes of section 552.002 of the Government Code. *See* Open Records Decision No. 635 at 4 (1995) (recognizing that section 552.002 is not applicable to personal information unrelated to official business and created or maintained by a public employee involving a de minimis use of public resources). Therefore, we conclude the submitted information is not subject to the Act and need not be released in response to the present request for information. As we are able to make this determination, 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, 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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/bw

Ref: ID# 636473

Enc. Submitted documents

c: Requestor
(w/o enclosures)