

McKinney City Council

Informational Series
Open Records Process
April 17, 2017



Most common public information requests

- Walk-in verbal requests
 - Common monthly financial reports, development reports, budget documents, council presentations, etc.
 - Not an “Open Record Request” under the Texas Public Information Act
- Mailed-in medical records request
 - Submitted by an attorney
 - Requires submission of written affidavit
- Open Record Request (ORR)
 - Received online via records portal or submitted in writing (email or hard copy) and input by staff into GovQA software
 - Is subject to the Texas Public Information Act (PIA)



Open Records Request administrators

- Records Management office established in 2015
 - Information Technology Department – Non-Public Safety Open Records Requests
 - 2 Employees
 - Michael Edwards, Records Supervisor
 - Sonya Paul, Records and Information Analyst
- Police Department Records – Public Safety Open Records Requests
 - 2 Employees
 - Heather Moody, Records Supervisor
 - Dee Williams, Records Clerk



ORR statistics (2-1-2016 through 3-1-2017)

- Non- Public Safety requests
 - Received: 1,424
 - Sent to Attorney for review: 68 (4.7%)
 - Average time requests are fulfilled: 4.12 Days
 - Percentage of requests fulfilled within 10 business days: 92.9%
- Public Safety requests
 - Received: 1,602
 - Sent to Attorney for review: 492 (30%)
 - Average time requests are fulfilled: 21.5 Days
 - Percentage of requests fulfilled within 10 business days: 62.25%



Steps in the ORR process that may increase processing time

- Department determination
 - Requests that need information from multiple departments may require more time
- Does the request involve a matter under criminal investigation?
 - Send to city Attorney for opinion
 - If determined to be public information and no exception to disclosure applies, it is released
 - If not; sent to Attorney General for opinion
- Is clarification needed?
 - Is the request unclear?
 - Is the date range open ended? i.e. 30 years or 6 months
 - Parcel of land? The city may ask for an aerial map to confirm location
- Is the request for large amount of information?
 - Public Information Act requires the city to provide a written cost estimate if city costs exceed \$40
 - If estimate is accepted, process continues; if modified, the modified request is processed



Information that must be released

The Public Information Act states all information held by or generated for the city and dealing with city business is public and must be released; the city must raise a specific legal exemption from disclosure in order to retain information. Examples of information that typically must be released include:

- Name, sex, ethnicity, salary, title and dates of employment
- Transcripts
- Training certificates
- Employment reviews
- Personal references and contact information
 - Former or current law enforcement officers are exempt
- Employment application

Form L-1



Information that may be redacted without seeking AG's opinion

- Personal identification information
 - Social Security, employee ID, TCLEOSE number, fingerprint
 - Financial information
 - Credit card, debit card, charge card, insurance policy number, direct deposit authorization, bank account number, bank routing number, W-4, W-2, L2, L3, I9
 - Family information (Law Enforcement or Employee Opt-Out Form)
 - Emergency contact information
 - Military Form DD-214 or Military Discharge Record
 - If it comes into city possession on or after September 1, 2003
- Motor vehicle information – License Plate, DL #, VIN
- Email addresses of the public provided to communicate with city



Information withheld and sent to Attorney General for Letter Ruling

- Required by Texas Government Code 552.301(a):

“A governmental body that receives a written request for public information that it wishes to withhold from public disclosure and that it considers to be under one of the exceptions under Subchapter C must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions.”



Information withheld and sent to Attorney General for Letter Ruling

- Personal financial information
 - Employees withholding allowance certificate, designation of retirement beneficiary, choice of insurance carrier, election of optional coverage and amounts paid, participation in voluntary investment program, mortgage payments, assets, credit history, sources of income not related to financial transaction between individual and governmental body
- Form F-5
 - Unless Peace Officer resigned or was terminated due to substantiated incident of excessive force or violation of law other than a traffic offense
- Polygraph information
 - Unless requester is polygraph examinee
- Medical information

Compilation of criminal history on an individual



Information withheld and sent to Attorney General for Letter Ruling

- Homeland Security information
 - Information that would reveal vulnerabilities in critical infrastructure or that, if disclosed, could aid in an attack on critical infrastructure
- Juvenile criminal reports
 - Records of minors alleged to have engaged in criminal activity
- Child abuse information
 - Family members may have special right of access, unless they are the accused
- Attorney-client communications (Privileged or work product)
- Real estate acquisition information (if not already made public)



Information Withheld and Sent to Attorney General for Letter Ruling

- Law enforcement exception materials
 - Information that would interfere with law enforcement or prosecution of a criminal matter if released
 - Information relating to an investigation that did not result in a conviction or deferred adjudication
 - Information relating to a threat against a police officer
 - Information prepared by a prosecutor that reflects mental impressions
- Informer's privilege
 - Protects the identity of individuals who report violations of law



Common requestor concerns and misconceptions

- Information must be released in 10 business days
 - No. Information must be provided “within a reasonable time,” and either a request for clarification, a cost estimate, or a notice that AG review will be sought must be provided within 10 business days. Reasonable time will depend on complexity, volume, need for clarification, etc.
- Staff should know what information I’m looking for
 - Staff cannot interpret the request or inquire into the requestor’s motives



Common requestor concerns and misconceptions

- I know there is an email; but I want staff to find it
 - Vague or open-ended requests are difficult, i.e. email requests
 - Request for all emails regarding McKinney National Airport and funding
 - City receives 500,000+ valid emails a month and sends 150,000+ valid emails a month
 - Best effort is given to use accurate search terms, but 100% of responsive information may not be recovered by software searches
- City is not answering my question or making the document I want
 - The PIA applies only to documents already in existence; it does not require generating a new document. The city cannot answer questions or perform legal research to respond to a request.

