

# Open Records



**The Texas Public Information Act**  
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City Hall Essentials  
Texas Tech University  
Lubbock, TX - June 7, 2019

# 4 Points to Remember

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1. Assume all Data is “Public” & “Open”
2. Beware of Email & Texting
3. Think Before You Create
4. Know Your City Policy



# AG Briefs- Lubbock, TX

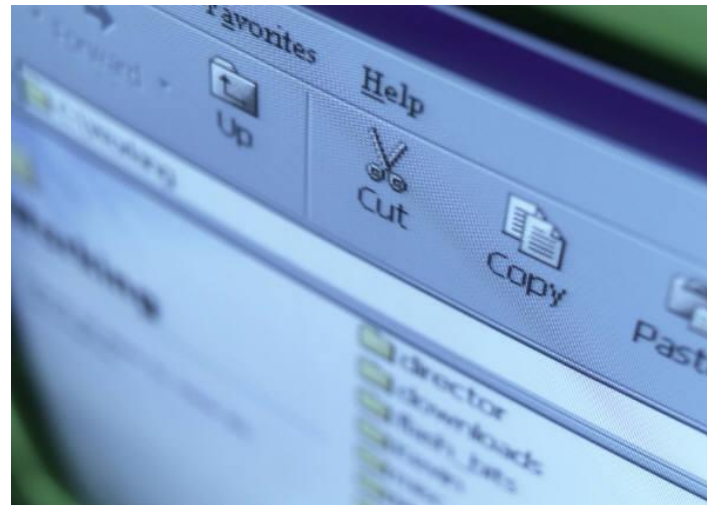
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<b>YEAR</b>	<b>NUMBER OF BRIEFS TO AG</b>
2014	170
2015	183
2016	247
2017	319
2018	453
2019 to date (5 months)	205

# Open Records

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- Public Information Act
- All Formats (Paper & Digital)
- Info Created *by* or *for* the City
- Info Given *to* the City for Business
- Beware of Email
- Beware of Texting
- Drafts / Internal



# Personal or Private?

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- City of Dallas case
  - Former Mayor Laura Miller
  - Blackberry:
    - Device & service paid for with personal funds
    - Utilized personal e-mail address
    - Used to conduct City business
  - Trial Court ruled: Public
  - Appellate Court overturned
- **S.B. 1368, 83<sup>rd</sup> Legislature 2013**
  - Doesn't matter who pays for device



# Open Records

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- Have a City Policy on Managing Requests
- Form of Requests for Information
- Requestor's Motives Irrelevant (Don't Ask)
- Clarification/Narrowing
- Signage Required



# Open Records

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- Uniform Responses
- Timing
- Charges
- Deposits
- Formats
- Repetitious Requests
- Paper Harassment



# Open Records

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- A.G. Opinions
- Appeals
- Notification to Requestor
- Previous Determinations
- Disclosures



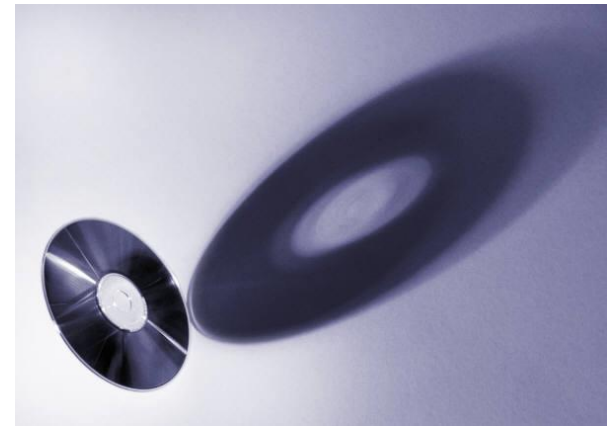


# Open Records

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## Common Exceptions to Disclosure:

- Economic Development
- Real Estate (Sales or Purchases)
- Confidential / Privileged
- Pending Litigation
- Law Enforcement
- Citizen Email Addresses
- SSNs / VINs / DLs



# Open Records

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## Other Exceptions to Disclosure:

- 3<sup>rd</sup> Party Financial Data / Trade Secrets
- Security Measures
- Juveniles / Victim / Medical
- Competitive Utility Info
- Audit / Management
- Agency Memorandum
- Drafts



# Open Records

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- Presumption If Don't Seek A.G. Opinion
- Civil & Criminal Penalties (Money & Jail)
- Think Before You Create
- Guard Privileged / Confidential Data



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# Conclusion

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- [TML.org](http://TML.org)
- [OAG.state.tx.us](http://OAG.state.tx.us)
- [TexasMunicipalLawyers.com](http://TexasMunicipalLawyers.com)

