

Government Performance and Financial Management Committee

February 22, 2021

**Open Records Requests:
Current Status**



City of Dallas

Biliera Johnson, City Secretary

Purpose

To provide background and information about City of Dallas open records requests processing during this COVID-19 pandemic and in light of the Governor's declaration.

Background

The Dallas City Council, on **October 11, 2017** via Resolution 17-1608, transferred oversight responsibility for the City's Open Records Request (ORR) from the City Manager to the City Secretary

- Oversight for all ORRs with exception of DPD
- Each department or managing services division has an Open Records Coordinator
- Five departmental dedicated FTEs (Open Records Center)
- Two city departments assist the Open Records Request Center (ORC)
 - City Attorney's Office
 - Communication & Information Systems

3

Background – Open Records Requests Deadlines

The City of Dallas (City) must “promptly” produce the public information. There is often a misconception that the Act requires copies of public information be produced within ten (10) days upon receipt of the written request. The Act states that all requests must be handled with good faith and must be accomplished within a reasonable time period.

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- If it will take the City longer than 10 business days to produce the records, the City must certify that fact in writing to the requestor. In the notice, the City must indicate a set date and hour within a reasonable time that the information will be made available for inspection or duplication (§552.221).
 - Counting starts the next business day after receiving a written request.
 - “Received” means when it is physically received, not when it is finally opened or read (this includes email).
 - Saturdays, Sundays and holidays do not count.
 - Skeleton crew days and days the City is closed do not count, but make sure you notify the OAG of such days in writing if you are requesting a decision.

Background – Open Records Requests Deadlines

Not later than the 10th business day, you must:

- Ask the OAG for a ruling and state the exceptions that apply;
- Notify the requestor in writing that you have asked for a ruling;
- Provide the requestor a copy of your letter to the OAG requesting a ruling; and
- Notify any third parties with proprietary interests in the requested information that they may submit written comments to the OAG stating why the information should be withheld (third party notice must be in the form prescribed by the OAG).

Not later than the 15th business day, you must:

- Submit written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld.
- Submit a copy of the written request for information.
- Submit a signed statement as to the date on which the request for information was received by the GB or evidence sufficient to establish that date.
- Submit a copy (not your original) of the specific information requested; or submit representative samples of the information if a voluminous amount of information was requested.
- Label that copy of the specific information, or representative samples, to indicate which exceptions apply to which parts of the copy.
- Send a copy of your written comments to the requestor.

[Gov't Code §§ 552.301, 552.305]

5

Historical and Statistical Data – *Prior to COVID-19*

Time Period	Requests
January 1, 2019 – December 31, 2019	11,941
January 1, 2018 – December 31, 2018	11,611
January 1, 2017 – December 31, 2017	10,568
January 1, 2016 – December 31, 2016 (switched from Motorola to GovQA Oct. 2016)	11,108 (est.)

Calendar Year	Average Number of Processing Days
2019	15.30
2018	16.52
2017	24.37
2016	27.58

**Includes ORRs that were sent to the State Attorney General's Office for a ruling/opinion, clarifications, time-extensions, and waiting for payments.*



March 17, 2020 - as a result of the Governor's disaster declaration, the Attorney General's Office clarified when a governmental body is not open for business

Update: Calculation of Business Days and COVID-19

As part of the unprecedented response to coronavirus in Texas, and in light of the Governor's recent disaster declaration, our office has received inquiries regarding the calculation of business days under the Public Information Act (the "Act") and related use of the new temporary suspension process under section 552.233 of the Government Code.

Section 552.233 of the Government Code permits a governmental body impacted by a catastrophe or disaster to suspend the applicability of the Act for up to 14 calendar days. Use of the section 552.233 suspension process is appropriate where a governmental body is open for business but determines that a catastrophe has interfered with its ability to comply with the Act. A section 552.233 suspension is not necessary if the governmental body is not open for business or if the applicable suspension period does not otherwise encompass a business day, as described below.

In order to provide additional clarification regarding the calculation of business days during the state response to the coronavirus, governmental bodies should consider the following guidelines when calculating business days:

- Holidays observed by the governmental body are not business days.
- Weekends are not business days.
- Skeleton crew days are not business days.
- A day on which a governmental body's administrative offices are closed is not a business day.
- If a governmental body has closed its physical offices for purposes of a public health or epidemic response or if a governmental body is unable to access its records on a calendar day, then such day is not a business day, even if staff continues to work remotely or staff is present but involved directly in the public health or epidemic response.

7

Statistical Data – *During COVID-19*

Time Period	Requests
January 1, 2020 – March 15, 2020	2,372
March 16, 2020 – January 31, 2021	8,021
Completed/Closed:	7,259
*Open (Catastrophe Hold Status):	598

- Waiting for payment, clarification, etc. **(167)**
- More than 90 Days Old **(152)**
- 60 - 89 Days Old **(46)**
- 30-59 Days Old **(52)**
- Less than 30 Days Old **(344)**

Calendar Year	Average Number of Processing Days
1/1/2020 – 3/15/2020	18.51
3/16/2020 – 1/31/2021	17.72

NOTE: ORR Delays > 60 were typically due to: 1) Staff and/or family directly affected by COVID-19; and 2) Staff working on special COVID-19 related assignments (i.e. Cares Grant Funds)



DALLAS POLICE DEPARTMENT

Open Records Requests



DALLAS POLICE DEPARTMENT (DPD)

Statistical Data – *During COVID-19*

Time Period	Requests
January 1, 2020 – March 15, 2020	7,660
March 16, 2020 – January 31, 2021	23,621
Completed/Closed:	21,036
*Open (Catastrophe Hold Status):	1,489

- ❑ **18,897** – Approximately 80% of DPD requests are Reports (Incident, Arrest, Crash and 9-1-1 Call Sheets)
 - ❑ Temporary re-assigned staff to handle outstanding open records requests.
 - ❑ Overtime / recruited former DPD ORR personnel to assist / formed specialized teams to address particular types of requests / waived fees for requests that were older than 90 days.



November 18, 2020 – the City Secretary's Office Open Records Center (ORC) began assisting DPD in the processing of DPD Open Records Requests.

***Open (Catastrophe Hold Status): 1,489**

❑ **1,162** – Total Open Records Requests reassigned to ORC

❑ **1,106** – Total Open Records Requests closed

❑ **56** – Total Open Records Requests (as of 1/31/21)

CSO's Open Records Center assistance to DPD during the six-weeks period allowed for the alignment of procedures between ORC and DPD when processing open records requests. Oversight is recommended to maintain consistency.

11

QUESTIONS



12

Appendix



Website link: [https://dallastx.govqa.us/WEBAPP/rs/\(S\(4ts5bybav4haepgzlqs02fya\)\)/OpenRecordsSummary.aspx](https://dallastx.govqa.us/WEBAPP/rs/(S(4ts5bybav4haepgzlqs02fya))/OpenRecordsSummary.aspx)

13