



# Introduction to Open Government

**Neal Falgoust**, Assistant City Attorney  
Open Government, Ethics & Compliance Division

# Background

- Sharpstown Scandal (1971-1972) – Two dozen state officials implicated
- Watergate (June 17, 1972) – Break-in and cover-up
- Reform Legislature (1973) – Personal financial disclosures, campaign finance disclosures, open records, open meetings. Found in Government Code, Title 5, Open Government & Ethics

# **Open Meetings Act**

IT SAYS...



Open



Posted



Recorded



**meet·ing** /mēdiNG/  
*noun*

a verbal exchange among a quorum about business before the body



**quo-rum** /'kwôrəm/

*noun*

a simple majority of members

# CIVIL & CRIMINAL PENALTIES



# **Public Information Act**



# In Plain English

The City of Austin must release all public information requested by a member of the public, unless a specific provision of law allows that information to be withheld and the City has permission to withhold it.

# “Public Information” Defined

- Information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:
  - By a governmental body.
  - For a government body and the body has a right of access to the information or uses public money to write, produce, collect, assemble or maintain the information.
  - By an individual or employee in their official capacity and the information concerns official business.

# “Public Information” Defined

- Includes electronic communication on any device if it relates to official business.

# Responding to a PIR

- Provide information “promptly”

OR

- Seek a ruling from the Office of the Attorney General (“OAG”) to withhold or redact the information

# Providing Information “Promptly”

- As soon as possible under the circumstances, within a reasonable time, without delay.
- If the information cannot be made available within 10 business days, must certify that fact in writing and set a date and hour the information will be available.

# Requesting a Ruling

- Any withheld information must go through Law Department for a determination.
- Law Department must seek a ruling from the AG no later than 10 business day from the date request was received.
- Law Department needs information from you within five business days

# Counting Business Days

- Start counting the first business day after receiving a written request.
  - “Received” means when it is physically received, not when it is opened.
  - If received after hours, then deemed received the next business day.
- Weekends and holidays do not count as business days.
- Bad weather days or other emergency days do not count.

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2 RECEIVED 5:15 PM	3	4 1	5 2	6 3	7
8	9 4	10 5	11 VETERANS DAY	12 6	13 7	14
15	16 8	17 WEATHER DAY	18 9	19 HOLIDAY	20 HOLIDAY	21
22	23 10	24	25	26	27	28
29	30	1	2	3	4	5



# Missed Deadlines

- Waive certain exceptions that would allow the City to withhold information.
- Exposure to possible lawsuit against the City.
- Enforcement action by OAG.
- Negative perception by the public.

# Not Excepted From Disclosure

- Telephone numbers and home addresses of general public.
- Public employee salary information.
- Applicants for a job.
- Performance evaluations.
- Executed contracts.
- Legal settlement agreements.

## Civil Penalties

Requestor, county or district attorney, or OAG may file a lawsuit against the City for failure to comply with the PIA.

Court *shall* award litigation costs and attorney fees to a prevailing plaintiff.

## Criminal Penalties

It is a misdemeanor offense to refuse to comply with the PIA; distribute confidential information; or willfully conceal, destroy, or alter public information. An offense is punishable by fine or confinement in jail.

Questions?