

# An Overview of the Texas Public Information Act

## The Public Information Act

- The Act sets requirements for citizens to access information on action taken by governmental bodies.

## The County Attorney's Role

- We advise and assist our client agencies (Harris County officials and their departments) how to best handle complicated requests made under the PIA.
- Client agencies include the Sheriff's Office, 8 Constables' Offices, 4 County Commissioners, the Medical Examiner, Tax Assessor-Collector, Risk Management (HR), Public Health, Engineer, and many more.

# Trends in Public Information Laws

- To what extent are private institutions' and nonprofits' information public if they're receiving government grants?
- The power of birthdates when trying to steal identities.
- Stats, stats and more stats on the jail population.

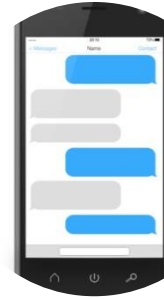
## Making a Request

- The Act is triggered when a person submits a written request to a governmental body. The request must ask for information already in existence.
- In preparing a request, a person may want to ask the governmental body what information is available.

## PIA Exceptions

- If a governmental body wishes to withhold information from the public, it must show that the requested information falls within an exceptions to disclosure.

# What is Public Information?



Text Messages,  
Voicemails,  
Photos

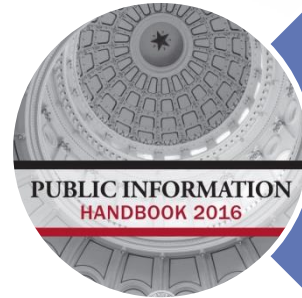


Books, Papers,  
Letters ,  
Printouts, Maps



E-mails, Internet  
Posts, Instant  
Messages,  
Calendars

# What is NOT Public Information?



Confidential information as outlined in sections 552.101-156 of the Act



No requirement to answer questions



No requirement to create new information

# Sample Request



Three Riverway  
Suite 1820  
Houston, Texas 77056  
tel: (713) 395-0991  
fax: (713) 395-0995  
George K. Samuel  
direct: (832) 485-5906  
gsamuel@delarosalawfirm.com

← Contact Information

July 27, 2016

*Via electronic mail: hrrm\_email@hctx.net*

Harris County Office of Human Resources & Risk Management  
1310 Prairie, Suite 170  
Houston, Texas 77002

Re: Public Information Act/Open Records Request – Dr. [REDACTED]

To Whom It May Concern:

Records in →  
existence

Pursuant to the Texas Public Information Act, this correspondence requests any and all employment records of Dr. [REDACTED] including, but not limited to: any applications, correspondence, supporting documents, evaluations, disciplinary documents, commencement and termination documents. She was employed by the then-Harris County Medical Examiner's Office from 9/21/1999 to 5/18/2001. Please let me know the total cost for the materials requested and our office will either send a check or someone to hand-deliver payment and pick-up the materials. Thank you, in advance, for your time.

Sincerely,

A handwritten signature in blue ink that reads "George K. Samuel".

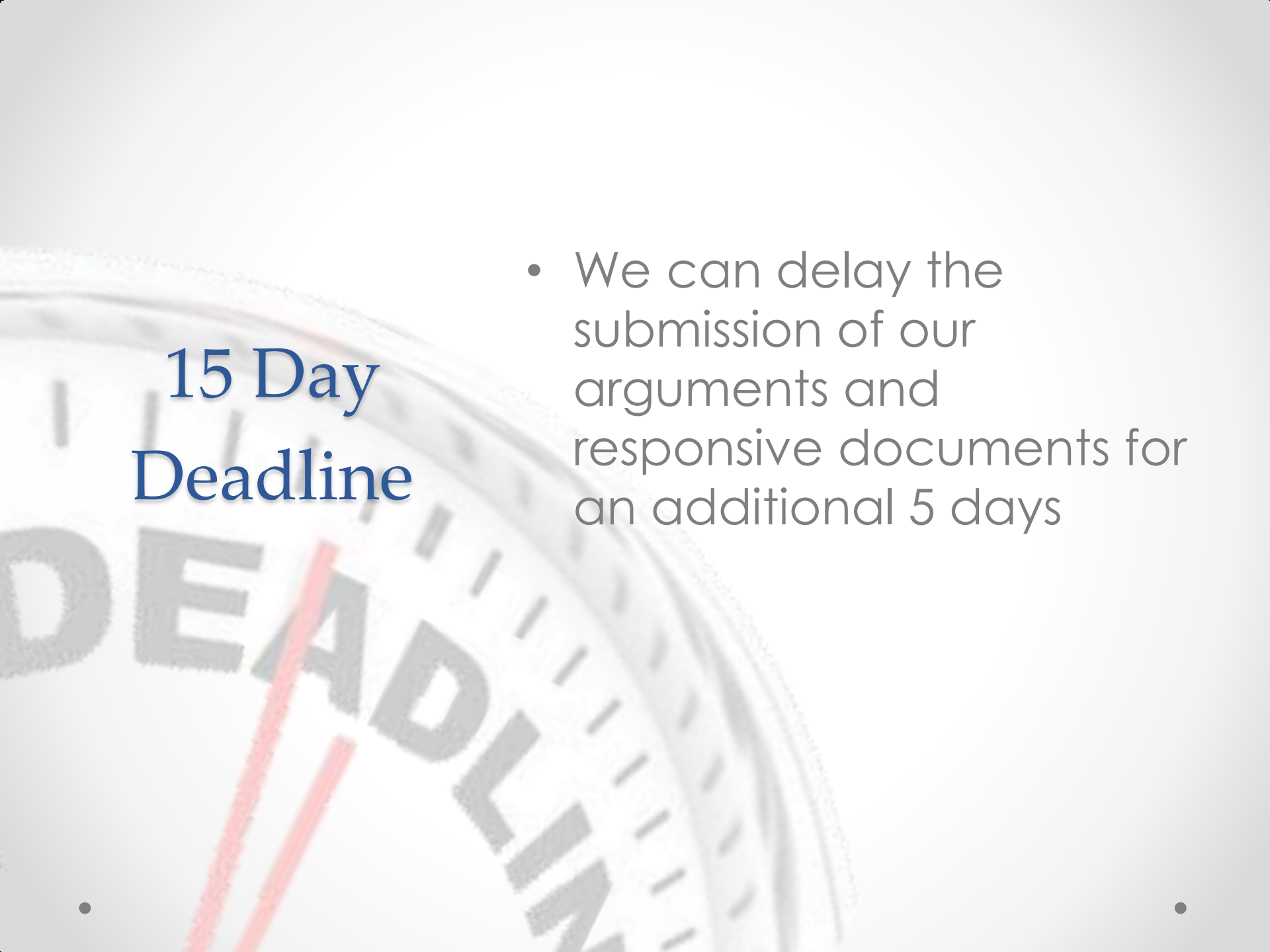
George K. Samuel

# The 10 Day Rule



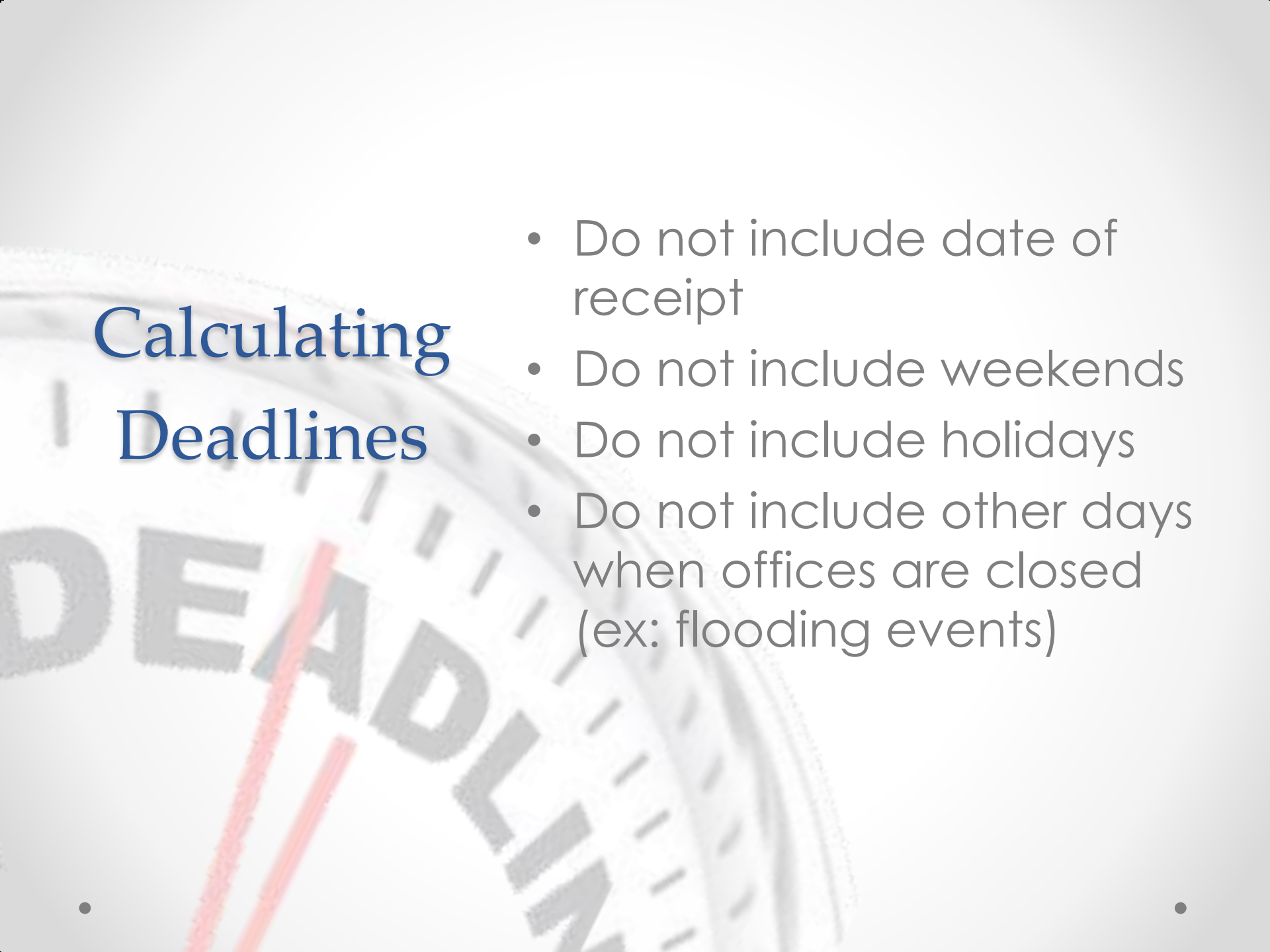
- Must request a ruling from the Attorney General and give notice to the requestor within 10 business days of receipt of the request (552.301)
- If records cannot be produced within 10 business days, must give notice to requestor as to when they can be produced (552.221)





## 15 Day Deadline

- We can delay the submission of our arguments and responsive documents for an additional 5 days



# Calculating Deadlines

- Do not include date of receipt
- Do not include weekends
- Do not include holidays
- Do not include other days when offices are closed (ex: flooding events)

What  
happens  
when we  
miss a  
deadline

- Responsive information is presumed public and must be released (552.302)
- A compelling reason can overcome this presumption



# Calculating Fees

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## Public Information Cost Estimate Model

This model will calculate costs associated with a request for **COPIES** of information, but not a request to **INSPECT** information. For questions about estimating costs when a requestor asks to **INSPECT** information, please call our toll-free Cost Hotline at 1-888-OR COSTS (1-888-672-6787).

Date request was received:

Government Body's Information	Requestor's Information
Agency Name: <input type="text"/>	<input type="radio"/> Mr. <input type="radio"/> Ms.
Contact Name: <input type="text"/>	First/Last Name: <input type="text"/>
Address: <input type="text"/>	Address: <input type="text"/>
City: <input type="text"/>	City: <input type="text"/>
State/Zip: <input type="text"/>	State/Zip: <input type="text"/>

### Itemization of costs:

Did the requestor ask for standard paper copies? Yes  | No

Did the requestor ask for copies of nonstandard documents (e.g., oversized paper, DVD, or VHS tape)? Yes  | No

Add labor costs? Yes  | No

Are overhead charges applicable? Yes  | No

Are computer resource charges applicable? Yes  | No

Are remote document retrieval charges applicable? Yes  | No

Will there be charges for miscellaneous supplies? Yes  | No

Will there be postage? Yes  | No

If the total charges exceed \$100, will you require a prepayment deposit? Yes  | No

OR

If the total charges exceed \$100, will you require a prepayment bond? Yes  | No

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[DATA SETS](#)

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# Calculating Fees: Labor

Request for standard paper copies	<ul style="list-style-type: none"><li>• Only if (1) there are more than 50 pages of copies OR (2) the information is kept in two or more separate buildings or in remote storage</li></ul>
Request to inspect paper documents	<ul style="list-style-type: none"><li>• For a governmental body with more than 15 employees, only if (1) it takes the governmental body more than 5 hours to prepare the information AND (2) the requested information is more than 5 years old or it would fill 6 OR more archival boxes (4,000 pages per box)</li></ul>
Request to inspect electronic information	<ul style="list-style-type: none"><li>• Only for programming and manipulation of data</li></ul>

## Public Information Cost Estimate Model Letter

Ms. Guilly Puente  
1000 Preston  
Houston, Texas 77002

Dear Ms. Puente:

We have received your request for information dated: 07/28/2016.

We have determined that complying with your request will result in the imposition of a charge that exceeds \$40. Therefore, we are providing you with this cost estimate as required by section 552.2615 of the Texas Government Code.

### Itemized List of Charges:

Description	Qty x Price	Total
Standard sized copies	300 x \$0.10	\$30.00
Labor minutes (\$15/hour)	45 x \$0.25	\$11.25
<b>Total cost</b>		<b>\$41.25</b>

There is a less expensive way for you to obtain this information. You may view the information in person at our offices. If you choose to view the information in person, please provide me with three dates and times when it will be convenient for you to come.

Your request will be considered automatically withdrawn if you do not notify us in writing within ten business days from the date of this letter that you either:

- (a) accept the charges;
- (b) wish to modify your request; OR
- (c) have sent to the Open Records Division of the Office of the Attorney General a complaint alleging that you are being overcharged for the information you have requested.

Sincerely,

Kristen Lee  
Harris County Attorney's Office  
1019 Congress St., Floor 15  
Houston, Texas 77002

What the  
CAO  
includes  
with our  
Brief to the  
AG

- Copy of request
- Proof of date request was received
- Notice of dates that should be excluded from calculation of timelines
- Citations for exceptions and legal arguments
- Copies of responsive documents

# New-ish Rule: Body Cams

- Any recording from a body-cam that documents the use of deadly force or that is related to an investigation of an officer is confidential until all criminal or administrative matters are finally adjudicated.
- Magic words: Requestor must provide the date and approximate time of the incident, the specific location where the recording occurred, and the name of one or more persons known to be a subject of the recording.
- 10 and 15 business day deadlines are 20 and 25 business days, respectively.



# New-ish Rule: Video of Arrests for Intoxication

- A person stopped or arrested on suspicion of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, is entitled to receive video of:
  - (1) the stop;
  - (2) the arrest;
  - (3) the conduct of the person stopped during any interaction with the officer, including during the administration of a field sobriety test; or
  - (4) a procedure in which a specimen of the person's breath or blood is taken.<sup>557</sup>

# Law Enforcement Exception

- 552.108 – Pending criminal investigation or prosecution; closed criminal case not resulting in conviction or deferred adjudication

# Litigation Exception

- 552.103 – Pending or anticipated litigation



**“Actually, I’m a litigator.”**

# Completed Reports: 552.103 v. 552.108

- 552.022 makes certain information public unless confidential by law, including completed reports
- Only 552.108 trumps 552.022
- 552.103 does not trump 552.022

# Resources

- The PIA Team at the CAO:
  - Kristen.Lee@cao.hctx.net and Guilly.Puente@cao.hctx.net
- The PIA Handbook
  - Available online or in hard copy for free
  - [https://www.texasattorneygeneral.gov/files/og/publicinfo\\_hb.pdf](https://www.texasattorneygeneral.gov/files/og/publicinfo_hb.pdf)
- The Attorney General's website
  - <https://texasattorneygeneral.gov/og/open-government>