



Did You Know?

How to Handle Common Public Information Issues

Kenneth Moreland
Assistant Attorney General
Open Records Division

Views expressed are those of the presenters, do not constitute legal advice, and are not official opinions of the Office of the Texas Attorney General.



Best Practices for Requesting a Ruling

- ▶ Follow a structure
 - Introduction
 - Any useful history (clarification sought, information released, requestor paid a bond or deposit)
 - Broadest exceptions
 - Narrow exceptions

- ▶ Organize attachments
 - Copy of original request
 - Clarifications or useful communications with requestor
 - Affidavits/attachments to support arguments
 - Copy or representative sample of information at issue



Common Briefing Errors

- ▶ Not fulfilling requirements of Sections 552.301 and 552.305
- ▶ Typographical errors
- ▶ Not labeling submitted documents
- ▶ Not adequately or accurately describing submitted documents
- ▶ Redaction of submitted documents
- ▶ Not informing the Open Records Division (“ORD”) when a request has been withdrawn
- ▶ Not adequately asserting all exceptions



Typographical Errors

- ▶ Incorrectly-typed exceptions
 - There is a BIG difference between section 552.103 (litigation exception) and section 552.130 (motor vehicle information).

- ▶ Incorrectly-typed names

- ▶ Incorrectly-typed dates

- ▶ Spelling errors

- ▶ Copies are illegible



Label, Label, Label!

- ▶ Send copies, ***not originals***, of the documents at issue
 - Do **NOT** redact documents that you are submitting for our review
 - If we can't read it, we can't rule on it

- ▶ Mark all submissions clearly, carefully and consistently
 - Make sure all exhibit numbers on documents match up with exhibit numbers in the brief
 - Make clear what has been released to the requestor and what has not
 - Reference all previous correspondence with ORD on all future, related correspondence – use our ID# or your reference number if you have one
 - If you have previously received a ruling on the same or very similar information, let ORD know



What is This?

- ▶ “Why on earth did the governmental body submit this?”
- ▶ Provide adequate background information for the documents submitted as responsive
 - How are these documents responsive?
 - How are they related to the pending investigation, litigation, etc.?
 - Who are the parties mentioned in the documents?
 - What is their relationship to the governmental body?
 - What, if anything, has already been released?
 - Do you have a pending cost estimate or complaint?
 - What does your governmental body do? If you have a law enforcement function, please tell us.



It's Been Withdrawn?!

- ▶ If the request has been withdrawn, please let ORD know as soon as possible so ORD is notified **before** the ruling has been issued.

- ▶ Proper reasons for withdrawal:
 - The governmental body has released all of the requested information to the requestor, OR
 - The requestor has withdrawn the request voluntarily or by operation of law, OR
 - The requestor has clarified or narrowed the request, and the governmental body has released the info subject to the more narrowly-tailored request, OR
 - The requestor is satisfied with the information or response the governmental body provided, OR
 - The governmental body has no information responsive to the request, OR
 - The governmental body is relying on a previous determination to withhold the information.



Previous Determinations

- ▶ Factors considered by ORD in granting a previous determination
 - Mandatory exception?
 - Governmental body's track record in correctly applying the exception to the information at issue in earlier ruling requests
 - Governmental body's overall track record in requesting rulings
 - Number of requests the governmental body receives for the specific type of information at issue
 - Are there any valid complaints against the governmental body?



Proper Briefing of Exceptions

- ▶ Be sure to fulfill the requirements of all claimed exceptions
- ▶ The Public Information Act Handbook is your best resource for briefing to ORD
- ▶ Search previous Open Records Letter Rulings and Decisions on the OAG's website for free
- ▶ Rulings and Decisions can also be found in Westlaw and Lexis



Communicating with the Requestor

- ▶ You may not ask why a requestor wants information.

- ▶ You may:
 - Explain to the requestor what information you do maintain
 - Explain how much information may be responsive to a request
 - Discuss with the requestor how to narrow or clarify a request
 - Request permission to redact information that is excepted from disclosure
 - Explain Public Information Act procedures



Available Resources

- ▶ The Public Information Act Handbook
- ▶ The Office of the Attorney General's Website (www.texasattorneygeneral.gov)
- ▶ The Open Government Hotline, (877) 673-6839



Open Records Division Forms

<https://www.texasattorneygeneral.gov/og/redacting-public-information-rules-and-forms>

OPEN GOVERNMENT / OPEN RECORDS DIVISION / REDACTING PUBLIC INFORMATION RULES AND FORMS



OPEN RECORDS DIVISION

ORDS: OVERRULED, MODIFIED, AFFIRMED,
WITHDRAWN

OPEN RECORDS QUESTIONS (ORQS)

OPEN RECORDS MEMORANDUM RULINGS

LIST OF PREVIOUS DETERMINATIONS BY
GOVERNMENTAL BODY

PUBLIC INFORMATION COST ESTIMATE
MODEL

**REDACTING PUBLIC INFORMATION RULES
AND FORMS**

AMENDMENTS TO THE PUBLIC
INFORMATION ACT: 2013 TEXAS
LEGISLATIVE SESSION

OPEN GOVERNMENT RESOURCES

OPEN GOVERNMENT CONFERENCES

EFILING

FAQ OPEN GOVERNMENT TRAINING

QUESTIONS REGARDING OPEN RECORDS
LETTER RULINGS

STATUTES

OPEN GOVERNMENT – OTHER PIA RULES

Redacting Public Information Rules and Forms

A governmental body that wishes to redact information from data or documents it is releasing to the public must generally seek the decision of the attorney general.

A governmental body need not request an attorney general decision if it is relying on a [previous determination](#) to redact information. For more information about previous determinations, please see [Open Records Decision No. 673 \(2001\)](#) and pages 35-38 of the [2014 Public Information Handbook](#).

A governmental body need not request an attorney general decision if it is redacting information pursuant to one of the five sections of the Public Information Act that give a governmental body explicit permission to redact information without requesting an attorney general decision. Those five sections are 552.024, 552.130, 552.136, 552.138 and 552.1175. The Rules and Forms applicable to redaction under those sections of the Public Information Act are provided below.

Rules

- Texas Administrative Code, Title 1, Chapter 63, Public Information Subchapter B, Review of Public Information Redactions

Forms

The following documents are provided in MS Word.

- Form Letter for Section 552.024 (public employee's personal information held by governmental body in its capacity as employer)
- (Effective 05/18/2013) Form Letter for Section 552.130 (motor vehicle records)
- Form Letter for Section 552.136 (account and access device numbers)
- (Effective 06/14/2013) Form Letter for Section 552.138 (family violence shelter center, victims of trafficking shelter center, or sexual assault program)
- (Effective 09/01/2014) Form Letter for Section 552.1175 (public employee's personal information held by governmental body in non-employment capacity)



Electronic Filing System



Texas Attorney General

Public Information Act Electronic Filing System



Welcome

Welcome to the Office of the Attorney General's Public Information Act Electronic Filing System. The OAG uses this system to accept a governmental body's request for an attorney general open records decision under the Public Information Act, Texas Government Code Chapter 552. Interested parties can also use this system to submit comments or materials for review by the OAG during the open records decision process.

Please Note: This system cannot be used to request public information from the OAG or any other governmental body. Requests for public information must be submitted directly to the governmental body from whom you are seeking information.

You can use this service to:

- Request an attorney general open records decision and submit new material for review; or
- Submit supplemental documents or comments related to an existing request for decision.

Information You Need:

- Name of Governmental Body or Interested Party
- Governmental Body PIC ID (This is the internal tracking number assigned to a public information request by a governmental body. This is not the ID number assigned by Texas.gov. Third parties should contact the Governmental Body for this number or use the name of the Governmental Body for this data field.)
- Texas.gov Request ID (if you are submitting additional material to an existing request)
- Credit card (Visa, MasterCard, Discover, or American Express) or Electronic Check information
- Microsoft® Silverlight® Plugin (This software is not required; however, it makes it easier to upload multiple files.) If you don't have Silverlight, you can install it now.

The system has detected that your system has this software. There is no action required on your part to use Silverlight to upload your files.

[Submit New Materials](#)

[Submit Supplemental Materials](#)

For questions about requesting an attorney general open records decision or submitting materials for review by the OAG, please contact the Attorney General's Open Government Hotline at 1-877-673-6839.

For technical assistance with this application, please call 1-877-452-9060 or send an email to [Texas.gov Help](#).



Online Rulings

Open Records Letter Rulings (ORLs)

If you received a ruling from the Office of the Attorney General and have questions concerning that ruling, visit the page about [questions regarding open records letter rulings](#).

Open Records Letter Rulings comprise the bulk of the Open Records Division's workload. More than 23,000 Open Records Letter Rulings were issued in 2014. These informal letter rulings are based on established law and practice and are signed by assistant attorneys general in the Open Records Division.

Unlike Open Records Decisions, these informal letter rulings are applicable only to the specific documents and circumstances surrounding them; therefore, Open Records Letter Rulings should not be cited as precedent when briefing to the Office of the Attorney General.

Attorney General	HTM	PDF
Ken Paxton 2015-Present	<i>HTM not available</i>	or2015-00001 to or2015-21683
Greg Abbott 2002-2014	or2002-06816 to or2012-20795	or2002-06816 to or2014-23554
John Cornyn 1999-2002	or1999-00001 to or2002-06815	or1999-00001 to or2002-06815
Dan Morales 1991-1998	<i>HTM not available</i>	or1991-00001 to or1998-03315
Jim Mattox 1983-1990	<i>HTM not available</i>	or1989-00001 to or1990-00604



Online Cost Estimate Model Tool

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: <input type="text" value="10/23/2015"/>
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



Questions?