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# Unusual Requests

## Handling Requests Outside of the Ordinary

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# How to Properly Respond to a Public Information Act Request

- Promptly release the requested information
- Withhold information based on a previous determination or as explicitly allowed by statute
- Withhold information and seek a ruling from the Office of the Attorney General



# Asking for a Previous Determination

- Governmental bodies may ask the Open Records Division (“ORD”) for a previous determination to withhold categories of information without seeking a ruling
- How to ask:
  - When seeking a ruling to withhold the type of information at issue, add a paragraph to your brief asking our office to allow you to withhold that type of information in the future without having to ask for a ruling.
- Common Example
  - Dates of Birth



# Clarifications

- Request
  - I want the incident report for the accident.
- Examples of Clarifications
  - Date Range
  - Subject Matter
  - Location of Incident
  - Individuals Involved
- Clarified request
  - I want the incident report for the motor vehicle accident that occurred at Main St and 2nd Street on July 4, 2021, at 2:00 pm involving Mike Jones.



# Clarifying or Narrowing the Scope of the Request

- Ask the requestor to clarify or narrow requests for information that are overly broad or unclear. [Gov't Code § 552.222]
- Requests are considered received on the date the governmental body receives the requestor's clarification or modification of the request.
- If a requestor does not respond to a request for clarification within 61 days, the request is considered to be withdrawn by operation of law.



# Voluminous Request

Please provide copies of every complaint, investigation, and disciplinary action taken against any employee for the last twenty years.



# Submitting Representative Samples

- If the requested records are voluminous and repetitive, a governmental body may submit representative samples of the records for our review. [Gov't Code § 552.301(e)(1)(D)]
- There is no magic formula for determining what would constitute a representative sample.
- The goal in creating a representative sample is to make sure it is truly representative of the requested records as a whole.



# Representative Samples

- **Request**
  - All records pertaining to a traffic accident.
- **Responsive Records**
  - Incident report, supplemental documents, audio recordings and video recordings.
- **Representative Sample**
  - The incident report is representative of all the remaining information.





# Representative Samples Continued

- **Request**
  - All e-mails pertaining to project #1
- **Responsive Records**
  - Hundreds of pages of e-mail chains pertaining to project #1
- **Representative Sample**
  - Removing duplicate copies of the e-mails could cut down enough to constitute a representative sample.
  - Only sending in the longest e-mail in a chain could cut down enough to constitute a representative sample.
  - Curating the e-mail topics could cut down enough to constitute a representative sample.



# Voluminous Request – Send a Cost Estimate

- Cost Estimate Requirements
  - Itemized
  - If a less costly alternative of viewing the records is available, include notice the requestor may contact the governmental body regarding the alternative method; and
  - Notify the requestor of the choices the requestor is allowed to make under the Act [Gov't Code § 552.2615]
- **Don't forget:** If a cost estimate requires a deposit, the request is considered received when the governmental body receives the deposit.



# Withdrawal by Operation of Law

- If the requestor fails to properly respond to a cost estimate within ten business days and a ruling is pending with ORD:
  - Notify the ORD in writing as soon as possible.
  - Include a copy of the cost estimate with withdrawal notice.



# Multiple Requests for the Same Information

Newsworthy event occurs and governmental body receives multiple requests for the same information.

Don't panic.



# Multiple Requests for the Same Information Continued

- Keep track of requests.
- Identify the information that can be released and provide it to the requestors as soon as possible.
- Request a ruling if necessary.
  - Submit a representative sample if the responsive information is voluminous.
- No need to request a ruling multiple times for the same information if the facts, laws, and circumstances on which the prior ruling was based hasn't changed.



# Section 552.275

- A governmental body may establish a policy under section 552.275 of the Government Code that allows for the recovery of labor once a requestor reaches a monthly or yearly limit in situations where labor is not otherwise recovered.
- Monthly limit: not less than 15 hours.
- Yearly limit: not less than 36 hours.
- Must provide the requestor with proper notice.



# Questions?

OAG's Open Government Hotline  
(877) OPEN TEX  
(512) 478-6736

OAG website  
[www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov)

