



KEN PAXTON  
ATTORNEY GENERAL *of* TEXAS

# Requesting a Ruling

## The Deadlines, Requirements, and Procedures

Gerald Arismendez

Assistant Attorney General, Open Records Ruling



# Deadlines

- Before a ruling is submitted, verify your deadlines under 552.301
  - Remember to exclude any weekends, holidays, or skeleton crew days
  - Did a clarification or deposit alter the deadlines?
- Have all relevant third parties been notified (i.e., other governmental agencies, private companies, victims/next of kin)
  - We need to know who to expect arguments from and who to send copies of our ruling to



# Informing the OAG - Deadlines (1 of 2)

- Be sure to inform the OAG of any of these exclusions or alterations which impact the calculation of the deadlines at issue
  - “The city’s offices were closes on MM/DD/YY in observance of . . . .”
  - “The county’s offices were closed MM/DD/YY – MM/DD/YY as the county was impacted by [a catastrophe]. The county complied with the notice requirements of section 552.2325.”
  - “Per the district’s holiday calendar, attached as Ex. B, the district’s offices were closed on MM/DD/YY.”



# Informing the OAG - Deadlines (2 of 2)

- Be sure to inform the OAG of any of these exclusions or alterations which impact the calculation of the deadlines at issue
  - “The department received the requested deposit from the requestor on MM/DD/YY. Accordingly, the department is considered to have received the request on MM/DD/YY for section 552.301 purposes.”
    - Attach copies of relevant info
  - “The request was not received by the university’s designated e-mail address until MM/DD/YY.”



# Informing the OAG - Third Parties

- “The city notified Company A, Company B, and Company C in accordance with section 552.305. See Ex. C for copies of the letters.”
- “The city notified Joe Smith, father of the deceased victim, of the request for information and of his right to submit comments to the OAG.”
- Reminder: Include all relevant information relating to these third-party notices (i.e., names, addresses, context).



# Informing the OAG - Information Not Submitted (1 of 2)

- Was the information not subject to the PIA?
  - “We have redacted some of the submitted information pursuant to FERPA”
  - “We have not submitted the requested judicial records as they are excluded from the PIA pursuant to section 552.003.”
- Was there a previous determination that was utilized?
  - “We will redact information subject to Open Records Decision No. 681.”
  - “We are withholding and releasing some of the requested information in accordance with Open Records Letter No. 2021-XXXXX. We are requesting a ruling for the remaining responsive information.”



# Informing the OAG - Information Not Submitted (2 of 2)

- Are you withholding information subject to an exception that doesn't require a ruling?
  - "We will redact information subject to sections 552.130 and 552.136."
- Does the requested information exist?
  - "We note that we have no information responsive to the portion of the request seeking \_\_\_\_."
- Have you released some of the responsive information?
  - "We have released the requested audio recordings."



# Valid Submission Methods (1 of 2)

- Via USPS Mail:

Office of the Attorney General  
Open Records Division  
P.O. Box 12548  
Austin, TX 78711

- Via Common Carrier or In-Person:

Office of the Attorney General  
Open Records Division  
300 W. 15th Street  
Austin, TX 78701





# Valid Submission Methods (2 of 2)

- Via the OAG eFiling System:
  - <https://apps.portal.texas.gov/OAGPIAeFiling/>
  - Reminder: You know your submission was properly uploaded when you receive two e-mails from the system
    - The 1st e-mail is from Texas.gov and confirms payment was received
    - The 2nd e-mail is from the OAG and is an official confirmation sent within 3 business days
- Invalid submissions:
  - Via Fax
  - Via E-mail



# 552.301(b)

- By the 10<sup>th</sup> business day, a governmental body must:
  1. Request a ruling
    - “The city received a PIA request from \_\_\_\_\_ for information pertaining to \_\_\_\_\_ and is requesting a ruling from the OAG as the city believes the responsive information is excepted from disclosure under the PIA.”
  2. State the exceptions that apply
    - List **all** exceptions that could possibly apply to the responsive information
      - “The city believes the responsive information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.111.”
      - “The county believes the responsive information is excepted from disclosure under sections 552.101 through 552.111.”
      - “The department believes the responsive information is excepted from disclosure under all exceptions listed within the PIA.”



# 552.301(b) – Common Issues

- Informing the OAG that your governmental body received a request is not the same as asking for a ruling.
  - “The city received a request, and we are submitting a copy of it to the OAG.”
- Writing, “We received a request for information” in the Comments section of an eFiled submission is not the same as asking for a ruling request.
- If you are submitting your brief and documents on a CD or USB, be sure to include a paper copy of the brief with the submission.
- Not raising all exceptions that could possibly apply to the responsive information
  - This most likely happens because a basic review wasn’t completed



# 552.301(e)

- By the 15<sup>th</sup> business day, a governmental body must provide:
  1. Written comments stating the reasons why its claimed exceptions apply
  2. A copy of the written request for information
  3. A signed statement as to the date the request was received or evidence sufficient to establish the date the request was received
  4. A copy of the specific information, or a representative sample
    - Label the documents to indicate which exceptions apply to which parts of the documents



# Written Comments (1 of 2)

- “Section 552.XXX applies to Exhibit A because [Element 1, 2, 3].”
- Inform the OAG of any relevant details. Examples include:
  - Who are the governmental body’s employees and agents?
    - Provide a list of names and titles for each employee at issue
    - Mark the documents at issue with the titles next to each employee’s name
    - “\_\_\_\_\_ is the city’s interim HR manager and \_\_\_\_\_ is the city’s counsel.”
    - “The city hired \_\_\_\_ as its consultant.”



# Written Comments (2 of 2)

- Inform the OAG of any relevant details. Examples include:
  - What documents are at issue? What is the context?
    - “The proposals pertain to a solicitation which is currently being rebid as the city was unable to come to an agreement with the winning bidder of the first solicitation.”
  - Who is the requestor? Does the requestor have a right of access?
    - “The requestor represents \_\_\_\_ in the motor vehicle accident at issue.”
    - “Although the requestor states in the request that he is the parent of the child victim, the requestor is in fact the victim’s uncle and has failed to establish he is the victim’s legal guardian.”



# Copy of the Written Request

- Must provide the entire request. Common issues include:
  - Not providing the entire email chain
  - Providing printouts or screenshots from PIA Portals that are missing details
- If the request doesn't match the records for any reason, let us know
  - Requestor lists one report number in the request, but after a phone conversation with the requestor, it's discovered that the report number provided was incorrect



# Signed Statement or Sufficient Evidence of Date Request Received

- If the request was e-mailed or submitted through an electronic portal, the date stamp on the e-mail or the electronic submission is sufficient
- Best Practice: Date stamp the requests when they are received
- If the brief is signed, a statement can be included as a part of the brief
  - “The city received the request at issue after business hours on Monday, MM/DD/YY, as we close at 4pm. Therefore, the city effectively received the request on Tuesday, MM/DD+1/YY.”
- The signed statement can be included as an attachment to the brief





# Copy of the Requested Information

- Make sure that it is actually a copy
  - Please do not submit the original version
  - The OAG will mark the documents at issue with the applicable exceptions
- Submit representative samples for voluminous information
  - Make sure the representative sample is representative of all the requested categories of information as well as the exceptions being raised
  - If third party documents are at issue, a representative sample cannot be submitted



# Copy of the Requested Info - Common Issues

- Sending the OAG electronic documents which cannot be opened
  - Encrypted
  - Proprietary format
    - Body Worn Camera/Dash Camera recordings
  - Illegible copies of documents
  - Blu-rays
- Sending the OAG documents that are not packaged properly
  - Missing USBs
  - Cracked/Scratched/Broken CDs
- Be sure to conduct a final review and make sure that everything you wanted to submit is actually submitted.
  - i.e., attachments are included, the media was actually burned to the CD



# Questions?

OAG's Open Government Hotline

(877) OPEN TEX

(512) 478-6736

OAG website

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