

Open records request

Sent: Friday, October 25, 2019 2:03 PM

From: JWinters0 JWinters0@protonmail.com

To: policedept@bigsandytx.gov policedept@bigsandytx.gov

To Whom It May Concern:

Pursuant to the Texas Public Information Act, I hereby request the following records:

- The most recent version of the Big Sandy City Police Department Policy and Procedure manual.
- The most recent version of the Big Sandy City Police Department Discipline handbook.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 business days, as the statute requires.

Sincerely,
Jack Winters
(903) 617-0413
JWinters0@protonmail.com
P.O 9418
Tyler TX 75711

RE: Open records request

Received: ↩ Friday, November 1, 2019 12:04 PM

From: Chief Tim Scott Policedept@bigsandytx.gov

To: 'JWinters0' JWinters0@protonmail.com

Jack Winters

I DO NOT have a electronic version of my policy. They cost me almost \$50. And some change to be printed. And it will be \$15.00 an hr. plus paper cost for one of my officers to make you a copy. I should have one ready for you to pick up approx Tuesday or Wednesday of next week. I will Email you when the copy is ready for pick up.

I will also have an itemized bill of the costs and if you pay with a check make it payable to City of Big Sandy.

Thank you,

Chief Tim Scott

Big Sandy Police Dept.

P.O.Box 986

Big Sandy, TX 75755

Ph:(903)-636-4200

Fx:(903)-636-5033

policedept@bigsandytx.gov

From: JWinters0 [mailto:JWinters0@protonmail.com]

Sent: Friday, October 25, 2019 2:04 PM

To: policedept@bigsandytx.gov

Subject: Open records request

To Whom It May Concern:

Pursuant to the Texas Public Information Act, I hereby request the following records:

- The most recent version of the Big Sandy City Police Department Policy and Procedure manual.
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In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 business days, as the statute requires.

Sincerely,

Jack Winters

(903) 617-0413

JWinters0@protonmail.com

P.O 9418

Tyler TX 75711

Public Information Cost Estimate Letter

Date: 11/08/2019

Jack Winters
PO Box 9418
Tyler, TX 75711

Dear Jack Winters :

We have received your request for information dated: 11/05/2019

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	Quantity x Price	Total
Labor minutes (\$15/Hour)	8 Hours	\$120.00
Overhead Charges	20%	\$24.00
Postage Cost		\$20.00
Misc. Supplies	Copies to allow redaction	\$15.00
Misc Supplies	Redacted Copies	\$15.00
Total Cost		\$194.00

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,

Chief Tim Scott
Big Sandy Police Department
203 E. Gilmer Street
Big Sandy, Texas 75755

Jack Winters
PO Box 9418
Tyler TX 75711
(903) 617-0413

November 20, 2019

Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, Texas 78711-2548

Attorney General,

Pursuant to § 552.269(a) of the Texas Government Code I am requesting a review of what we have determined to be blatant overcharges for public records.

Chief Tim Scott has sent an estimate for a copy of their Police Policy Manual we have requested. Mr. Scott did not indicate how many pages there are in this manual but based on my previous review of several police departments, I have estimated that Big Sandy's manual should be no more than 300 pages. Mr. Scott is requesting \$194.00 for a single copy of this manual and appears to be intentionally overcharging for this. His estimate exceeds the departments that have provided policy manuals by a factor of 10.

Mr. Scott's estimate was:

Labor Minutes (\$15/Hour)	8 Hours	\$120.00
Overhead Charges	20%	\$24.00
Postage Cost		\$20.00
Misc. Supplies	Copies to allow redaction	\$15.00
Misc. Supplies	Redacted Copies	\$15.00
Total		\$194.00

Labor Charges:

I will be using an estimated page count of 300 to do a cost comparison.

- My math of his Labor (8 hours) plus Misc. Supplies \$15.00 (copies to allow redaction) assuming this is 1 hour of labor = 9 hours of labor.
- 9 hours x 60 minutes = 540 minutes
- 540 minutes / 300 copies = 1 copy every 1.8 minutes.
- Mr. Scott is claiming that it will take 1.8 minutes to make ONE copy. On a sample run in our office we were able to hand feed 8 pages onto the copier glass to make the copies in a one minute span. At 8 pages a minute, 300 pages could be copied in 38 minutes.

Redacted Copies Charges:

- In the above estimate Mr. Scott is charging for 8 hours of making copies AND \$15.00 for "copies to allow redaction" AND \$15.00 for the "Redacted Copies". This would be double dipping as pages requiring redaction were copied during the first copy pass.

Postage Charges:

- A ream of paper weighs approximately 5 pounds or simply 100 sheets per pound. Using USPS published rates; Priority Mail rate for 3 pounds is \$8.30. Less than one-half of the estimate provided.

- Mr. Scott states postage on 300 pages would be \$20.00. This is also an overcharge.

My estimate.

Copy charges:

300 pages x .10 per page = \$30.00

Labor rate, at a generous copy rate of 5 pages per minute. This comes to 300 pages per hour (5 pages per minute x 60 minutes).

- Copies: \$30.0
- Labor: \$15.00
- Total: \$45.00

Labor rate for redacted copies:

At a generous rate of 1 page per minute 60 pages could be redacted in an hour (1 page per minute x 60 minutes). I expect about 10 pages of redacted material. 60 minutes / 10 pages = 6 minutes of labor. 6 (minutes) x \$15.00 = \$1.50

- Copies: \$1.00
- Labor: \$1.50
- Total: \$2.50

Postage:

- Priority Mail 3 pounds: \$8.30
- Envelope: \$1.00
- Total: \$9.30

New theoretical estimate:

Copy charge per page	.10 per page (300 pages)	\$30.00
Labor Minutes (\$15/Hour)	1 Hours	\$15.00
Overhead Charges	20%	\$3.00
Postage Cost		\$9.30
Misc. Supplies	Copies to allow redaction (Not Needed)	\$0.00
Misc. Supplies	Redacted Copies (10 x .10)	\$1.00
Total		\$58.30

\$58.30 would be a maximum if they are hand feeding the pages onto the copier. If they have a fancy newfangled automatic document feeder like folks are using these days then that labor rate would reduce greatly.

Attached as an example of a correct and true estimate is a copy of one we received from a local department supplying 700+ pages of a HEAVILY redacted document that will take several weeks to prepare.

As a reminder to Mr. Scott, § 552.269(b) of the Texas Government Code states a person who overpays for a copy of public information because a governmental body refuses or fails to follow the rules for charges adopted by the attorney general is entitled to recover three times the amount of the overcharge if the governmental body did not act in good faith in computing the costs.

Sincerely,

Jack Winters

Enclosures:

Encl. 1 – Original open records request email chain

Encl. 2 – Big Sandy's itemized estimate..

Encl. 3 -. Copy of itemized estimate from city in East Texas with correct pricing.



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 20, 2019

Chief Tim Scott
Big Sandy Police Department
203 East Gilmer Street
Big Sandy, Texas 75755

Dear Chief Scott:

The Office of the Attorney General ("OAG") received the enclosed complaint from Mr. Jack Winters alleging the Big Sandy Police Department (the "department") is overcharging for copies of public information under the Public Information Act (the "Act"), chapter 552 of the Government Code. The complaint was assigned ID# 810941.

The department received a request for the department's policy and procedure manual and discipline handbook. The department provided the requestor an estimate in the amount of \$194.00. The requestor believes the charges are excessive.

Pursuant to section 552.269(a) of the Government Code, the department is required to respond to the following questions in writing within ten business days after the date you receive this letter:

1. How did the department determine the number of personnel hours necessary to produce the responsive information? Please describe the process in a step-by-step manner, stating the time each step will take. If a sample test was performed, please provide a brief description of the results of the test.
2. Does the information requested exist in paper form, electronic form, or both? Please explain which records exist in paper form, and which exist in electronic form.
3. Where are the records physically located? If the records are in two or more separate buildings, please provide a simple map showing the location of the buildings, including thoroughfares.

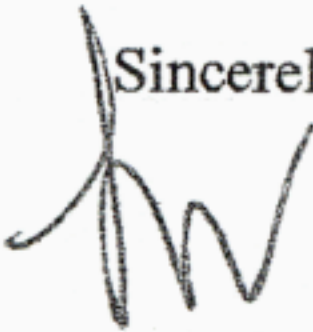
4. Will any information be redacted from the records? If so, what information will be redacted, and will the redaction be done manually, electronically, or a combination of both? Please state which exceptions to disclosure apply and if the department plans to seek a ruling for the requested information.

For your convenience, you may access the 2018 Public Information Handbook at <https://www.texasattorneygeneral.gov/og/open-government>.

Additionally, you may access the Public Information Cost Estimate Model at <https://www.texasattorneygeneral.gov/og/public-information-cost-estimate-model> to help you comply with section 552.2615 of the Act.

If you have any questions or need further assistance, please contact the Education and Enforcement Section of the Open Records Division at (888) 672-6787.

Sincerely,



Jahanna Ward
Assistant Attorney General
Education and Enforcement Section
Open Records Division

JW/vd

Ref: ID# 810941

Enclosure

c: Mr. Jack Winters
P.O. Box 9418
Tyler, Texas 75711
(w/o enclosure)



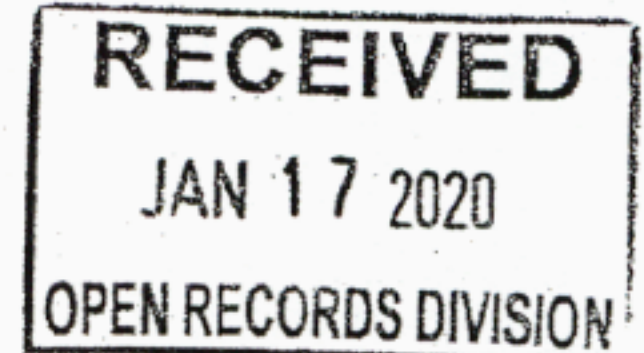
BIG SANDY POLICE DEPARTMENT

Tim Scott
Chief of Police

P.O. Box 986
Big Sandy, Texas 75755

January 10, 2020

Jahnna Ward
Assistant Attorney General
Education and Enforcement Section
Open Records Division



Jahnna,

I received your letter dated December 20, 2019 on December 27, 2019.

While I am able to answer some of the questions, I contacted the City of Big Sandy attorney, Robert Davis, for his assistance in answering question #4.

I have never had a Public Information Act request for a copy of the Big Sandy Police Department Personnel Policy and Procedures Manual. The Big Sandy Personnel Policy and Procedures Manual is approximately 350 pages. To the best of my knowledge, here are the responses to the questions in your letter:

1. Since this is the first time the policy has been requested, we estimated it will take approximately 8 hours to sort, redact and copy the 350 page manual. We estimate the sorting process to take approximately 1 hour, the redacting process to take 6 hours, and the copying process to take 1 hour. No sample test has been performed.
2. The information requested exists only in paper form. No part of the department policy and procedures manual exists in electronic form.
3. The Policy and Procedures Manual is physically located at the Big Sandy Police Department, 203 E Gilmer Street, Big Sandy, Texas.
4. Yes, some information, as allowed by the Public Information Act, will be redacted. Robert Davis, the City of Big Sandy attorney, can be reached at 903.520.4525, and is working on a comprehensive list of the information that will be redacted. The redaction will be done manually.

Please let me know if you have any additional questions.

Sincerely,

Chief Tim Scott



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 11, 2020

Chief Tim Scott
Big Sandy Police Department
203 East Gilmer Street
Big Sandy, Texas 75755

Dear Chief Scott:

This office has received a complaint from Mr. Jack Winters alleging the Big Sandy Police Department (the "department") is overcharging for copies of public information under the Public Information Act (the "Act"), chapter 552 of the Government Code. The complaint was assigned ID# 810941.

The department received a request for the department's policy and procedure manual and discipline handbook. The department provided the requestor an estimate in the amount of \$194.00. The requestor filed a complaint because he believes the charges are excessive. After receiving the complaint, this office asked the department to respond to a series of questions to determine if the charges were appropriate. The department has provided a response to those questions.

Initially, we address any information that will be redacted. When confidential information is mixed with public information in the same page, a labor charge may be recovered for time spent to redact the confidential information, but not to redact information that falls within a discretionary exception. *See* 1 T.A.C. § 70.3(d)(4); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions in general). The department states it will make redactions as allowed by the Act. However, in order to withhold any of the requested information, the department must request a ruling from this office or rely upon a previous determination from this office. *See* Gov't Code § 552.301; Open Records Decision No. 673 (2001) (listing elements of previous determinations under section 552.301(a) of the Government Code). Upon receiving a ruling from this office or determining information is subject to a previous determination, the department may include the time spent redacting confidential information in its cost estimate for labor. *See* 1 T.A.C. § 70.3(d)(4). However, the department may not charge labor for the time required to redact information subject to only discretionary exceptions found under the Act, including section 552.108 of the Government Code. *See id.*; *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions in general).

Next, we note labor may be charged at \$15.00 per hour for time spent locating, compiling, reproducing, and manipulating data. *See* 1 T.A.C. § 70.3(d). The department states the responsive information exists in paper form and consists of 350 paper pages. The department states it estimated it would require eight hours to sort, redact, and copy the responsive information. We find the tasks of copying the responsive information and redacting confidential information qualify as labor. Accordingly, the department may generally charge labor for the time necessary to complete these tasks.

However, the department also includes the time necessary to sort the responsive information. The department does not explain why it is necessary to sort the responsive information. Accordingly, we find this task does not meet the definition of labor, and the department may not charge labor for the time necessary to complete this task. Further, the department does not state it conducted a sample test to determine its estimated labor charges. Without further explanation of how the department arrived at its estimate, our office is unable to determine whether the estimate for labor is appropriate. Accordingly, the department is required to conduct a sample test to determine the estimated time necessary to redact confidential information. The department should use this sample test to recalculate its estimated labor. Nevertheless, the department may assess an overhead charge of twenty percent of the total allowable labor associated with providing responsive information to the request. *See id.* § 70.3(e)(3).

Next, the department includes \$30.00 for miscellaneous supplies in order to provide the requestor with redacted copies. We note a governmental body may charge \$0.10 per page for the paper copies it provides. *See id.* § 70.3(b)(1). In this instance, the department may charge \$0.10 per page for the paper copies it provides to the requestor. However, the department may not charge the requestor for additional copies in order to redact information.

Finally, we note a governmental body may charge for actual cost for the postage required to transmit requested information. *See id.* § 70.3(j). In this instance, the department estimates its postage cost will be \$20.00. Upon review, we are unable to determine whether this postage estimate is appropriate. We note the Act requires a governmental body to make reasonably efficient use of supplies and other resources to avoid excessive reproduction costs. *See* Gov't Code § 552.268. Accordingly, the department may generally charge for the amount of postage necessary to transmit the information via first class mail. If the amount estimated by the department exceeds the cost of first-class mail, the department must adjust its estimate accordingly.

In summary, the department may charge for the time necessary to copy the responsive information and redact confidential information. The department may assess an overhead charge of twenty percent of the total allowable labor associated with providing the responsive information to the request. The department may charge \$0.10 per page for the paper copies it provides. The department may generally charge for the amount of postage necessary to transmit the information via first class mail.

Within five business days of receiving this letter, the department is required to notify the requestor in writing of the amended charges to [receive copies of the requested information in a statement that complies with section 552.2615 of the Government Code. The department is also required to provide this office a copy of that communication. We will consider this file closed.

Chief Tim Scott - Page 3

If you have any questions or need further assistance, please contact us at (888) 672-6787.

Sincerely,



Jahanna Ward
Assistant Attorney General
Education and Enforcement Section
Open Records Division

JW/vd

Ref: ID# 810941

c: Mr. Jack Winters
P.O. Box 9418
Tyler, Texas 75711
(w/o enclosures)

RE: Amended Estimated Charges for Open Records Request - Big Sandy, Texas

Received: Thursday, February 20, 2020 2:55 PM

From: Robert S. Davis rsd@flowersdavis.com

To: 'JWinters0' JWinters0@protonmail.com

CC: 'Laura M. Rex' cityofbig sandy@yahoo.com, Robert S. Davis rsd@flowersdavis.com

Laura Rex

Big Sandy City Hall

P.O. Box 986

Big Sandy, TX 75755

FLOWERS  DAVIS, P.L.L.C.

Robert S. Davis
1021 ESE Loop 323, Suite 200, Tyler TX, 75701
(903) 534-8063 / (903) 534-1650 Facsimile
rsd@flowersdavis.com / www.flowersdavis.com/

NOTICE OF CONFIDENTIALITY:

The information contained in and transmitted with this email is: 1) SUBJECT TO THE

ATTORNEY/CLIENT PRIVILEGE; 2) ATTORNEY WORK PRODUCT; AND/OR 3)

CONFIDENTIAL.

This communication and any document, file or previous email message attached hereto, constitute an electronic communication within the scope of the Electronic Communication Privacy Act, 18 USCA 2510. This communication may contain non-public, confidential or legally privileged information intended for the sole use of the designated recipient(s). The unlawful interception, use or disclosure of such information is strictly prohibited under 18 USCA 2511 and any applicable laws. If you have received this message in error, please notify us immediately by return email and delete and destroy all copies of the original message.

From: JWinters0 <JWinters0@protonmail.com>

Sent: Thursday, February 20, 2020 11:52 AM

To: Robert S. Davis <rsd@flowersdavis.com>

Subject: Re: Amended Estimated Charges for Open Records Request - Big Sandy, Texas

Mr Davis,

As per my last email, Please provide an address for me to address payment to.

Sincerely,

Jack Winters

(903) 617-0413

JWinters0@protonmail.com

P.O 9418

Tyler TX 75711

----- Original Message -----

On Thursday, February 20, 2020 11:34 AM, Robert S. Davis <rsd@flowersdavis.com> wrote:

Thanks Mr. Winters. As soon as the City receives your check, the City will make the copies and mail them to you. Send your check to Laura Rex at City Hall. I have copied Laura on this e-mail.

Thanks - Robert Davis.

Sent from my iPhone

On Feb 20, 2020, at 10:43 AM, JWinters0 <JWinters0@protonmail.com> wrote:

Mr Davis,

I accept the amended charges totaling \$59.00

Please send the documents to the following address:

Jack Winters

P.O 9418

Tyler TX 75711

Please provide a address for me to address payment to.

Sincerely,

Jack Winters

(903) 617-0413

JWinters0@protonmail.com

P.O 9418

Tyler TX 75711

----- Original Message -----

On Tuesday, February 18, 2020 4:38 PM, Robert S. Davis <rsd@flowersdavis.com> wrote:

Dear Mr. Winters – Pursuant to the Texas Attorney General Opinion, the amended estimated charges for the copies of the requested records is as follows:

300 pages at .10 per page.

\$30.00

Estimated Administrative Time (20% of total of 3 hours at 15.00 per
hour) \$ 9.00

Postage

\$20.00

Total

\$59.00

The City does not have electronic copies of the documents that you have requested. The documents will have to be copied, front and back, and then compiled for you. You can save money on the postage by picking up copies of the documents anytime from 8 am to 4:30 pm at the City of Big Sandy Municipal Building. If you choose to have them mailed to you, the total amended estimated amount that you need to tender to Big Sandy is \$59.00.

This request will be considered to be automatically withdrawn if you do not respond in writing to this updated itemized statement in the time and manner required by Section 552.2615 of the Texas Government Code. Your Request will be considered withdrawn ten business days after today's date. You can accept the estimated charges, modify your request in response to this itemized statement; or send the Attorney General a complaint alleging that the you have been overcharged for being provided with a copy of the public information.

If you have any questions or comments, or if I can help you facilitate this in any manner, please give me a call or e-mail me. My cell phone number is (903) 520-4525.

Thanks – Robert S. Davis.

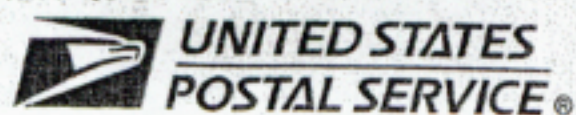
<image001.jpg>

Robert S. Davis
1021 ESE Loop 323, Suite 200, Tyler TX, 75701
(903) 534-8063 / (903) 534-1650 Facsimile
rsd@flowersdavis.com / www.flowersdavis.com/

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CUSTOMER'S RECEIPT

SEE BACK OF THIS RECEIPT
FOR IMPORTANT CLAIM
INFORMATION

**NOT
NEGOTIABLE**

Pay to

Address

Laura Rex, Big Sandy City Hall

P.O. Box 986

KEEP THIS
RECEIPT FOR
YOUR RECORDS

Serial Number

26472141066

Big Sandy, TX 75755

2020-02-21

Post Office

757550

Amount

\$59.00

Clerk

04

U.S. Postal ServiceTM CERTIFIED MAIL[®] RECEIPT Domestic Mail Only

For delivery information, visit our website at www.usps.com.

BIG SANDY, TX 75755

Certified Mail Fee \$3.55

Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$0.00

☐ Return Receipt (electronic) \$0.00

☐ Certified Mail Restricted Delivery \$0.00

☐ Adult Signature Required \$0.00

☐ Adult Signature Restricted Delivery \$0.00

Postage \$0.55

Total Postage and Fees \$6.95

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4[®]

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Laura Rex
Big Sandy City Hall
P.O. Box 986
Big Sandy TX 75755



9590 9402 5295 9154 5688 30

2. Article Number (Transfer from service label)

7019 2280 0000 3245 7495

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

☒ *[Signature]*

☒ Agent

☐ Addressee

B. Received by (Printed Name)

Dylan Anderson

C. Date of Delivery

3/2/2020

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☒ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☐ Certified Mail[®]

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery

(over \$500)

☐ Priority Mail Express[®]

☐ Registered MailTM

☐ Registered Mail Restricted

Delivery

☒ Return Receipt for

Merchandise

☐ Signature ConfirmationTM

☐ Signature Confirmation

Restricted Delivery

Domestic Return Receipt

Jack Winters
PO Box 9418
Tyler TX 75711
(903) 617-0413

June 2, 2020

Robert Davis
Council for Big Sandy
1021 ESE Loop 323 Suite 200
Tyler TX 75701

Re: Open request to the City of Big Sandy dated October 25, 2019.

Mr. Davis,

I am still waiting on the responsive documents from my request. Payment was sent on February 21, 2020 after receiving an updated estimate from the city. My payment was sent by certified mail and received by Ms Laura Rex on March 2, 2020. Could you contact your client and provide me with an update on my request.

Sincerely,

Jack Winters

Enclosures:

Encl. 1 – Original open records request email chain

Encl. 2 – Big Sandy's updated estimate..

Encl. 3 -. Copy of Certified Mail Receipt, Return Receipt, and USPS Money Order Receipt for Payment.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Robert Davis
Flowers Davis Law
1021 ESE Loop 323
Suite 200
Tulsa TX 75702



9590 9402 5295 9154 5688 61

2. Article Number (Transfer from service label)

7019 2280 0000 3245 7518

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X C. GRAY

☒ Agent

☐ Addressee

B. Received by (Printed Name)

COVID 19

C. Date of Delivery

10-3

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☒ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Received July 29, 2020

Jack Winters
PO Box 9418
Tyler TX 75711

July 27, 2020

Billy Byrd
District Attorney
405 North Titus
Gilmer, TX 75644

Mr. Byrd,

Pursuant to Section 552.3215 of the Texas Public Information Act, this letter services as a Formal Complaint against Tim Scott, Chief of Police for the City of Big Sandy, Texas.

This complaint alleges that Mr. Scott has failed to provide the documents I have requested through Texas's Public Information Act.

Below is a timeline of my request.

02/10/20	Initial request for Tim Scott's Civil Service Jacket
02/17/20	Reply from Big Sandy's Attorney
02/20/20	Response sent to Big Sandy's Attorney amending request to read "Tim Scott's Employee File".
06/02/20	Follow up letter to Big Sandy's attorney requesting the responsive documents. Sent Certified Mail with Return Receipt. Tracking Number 7019 2280 0000 3245 7334.
06/24/20	Informal Complaint filed with OAG. (Online only – no confirmation received)
07/27/20	Formal Complaint filed with Upshur County District Attorney.

Sincerely,



Jack Winters

Enclosures:

- Encl 1 – Initial Request
- Encl 2 – Reply from Big Sandy's Attorney
- Encl 3 – Letter amending request
- Encl 4 – Follow up letter requesting documents

Jack Winters
PO Box 9418
Tyler TX 75711-9418
(903) 617-0413
Jwinters0@protonmail.com

February 10, 2020,

Tim Scott
Chief of Police
Big Sandy Police Department
203 E Gilmer St
Big Sandy TX 75755

Pursuant to Texas Government Code, Chapter 552, I hereby request the following records:

- Please provide any and all documents, files, photographs in the Civil Service Files excluding any confidential information that is deemed protected by law, statute or Texas Attorney General ruling for the following officer(s): Chief of Police.

I ask the request be filled electronically, by e-mail attachment, CD-ROM or flash drive if available. Should the information not exist in electronic format I will accept a paper copy.

In the event that there are any fees, please provide an itemized statement detailing the total charges required to fulfill my request.

Thank you in advance for your cooperation in this matter. I look forward to receiving your response to this request.

Sincerely,

Jack Winters

FLOWERS ♦ DAVIS, P.L.L.C.

CELIA C. FLOWERS
PRESTON W. MCGEE
MELANIE S. REYES
WILLIAM R. KNIGHT, JR.
J. SCOTT MILLER
CATHERINE CHESLEY GOODGION
COREY R. KELLAM
MAYA P. JEDLICKA
JORDAN C. MULLINS
KATRYNA R. WATKINS
ALAN W. TOMME
A. D. (DEAN) CHAPMAN, OF COUNSEL
THOMAS H. BUCHANAN, OF COUNSEL

1021 ESE LOOP 323, SUITE 200
TYLER, TEXAS 75701
MAIN TELEPHONE: (903) 534-8063
FACSIMILE: (903) 534-1650
WWW.FLOWERSDAVIS.COM

LONGVIEW OFFICE:
1516 JUDSON ROAD
LONGVIEW, TEXAS 75601
TELEPHONE: (903) 757-8900
FACSIMILE: (903) 757-8902

DALLAS OFFICE:
BANK OF AMERICA BUILDING
400 SOUTH ZANG BLVD., STE 1400
DALLAS, TEXAS 75208-6648
TELEPHONE: (214) 843-5777

ROBERT S. DAVIS
CHAD C. ROOK
LEE I. CORREA
ROBIN H. O'DONOGHUE
J. MITCHELL BEARD
STEVE M. MASON

IMMIGRATION:
VIRGINIA D. YOUNG
DANIEL C. ROSS
TELEPHONE: (903) 592-8186

February 17, 2020

Jack Winters
P.O. Box 9418
Tyler, Texas 75711-9418

Via CC/RRR: 7016 0600 0000 1935 4181
Via Email: jwinters0@protonmail.com

Re: Open Records Requests to the City of Big Sandy dated February 10, 2020.

Dear Mr. Winters:

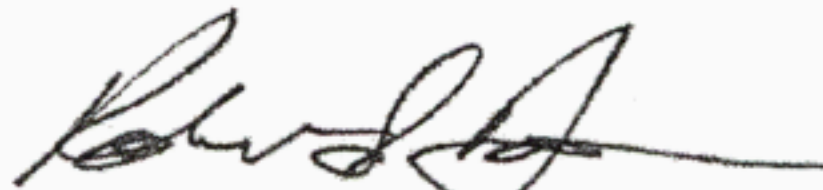
Please be advised that this law firm represents the City of Big Sandy regarding your information request dated February 10, 2020.

The City of Big Sandy is not a "Civil Service" municipality and has no "Civil Service Files". Consequently, there are no records responsive to your request. In light of that fact, it is unclear as to what documents you are actually seeking. Please clarify your request as it is unclear exactly what information is being requested.

We may be able to work together to clarify and narrow the scope and provide the relevant materials within an agreed time frame. Our agreement would mean that no AG Opinion would have to be requested at this time. Under Section 552.222 of the Texas Public Information Act, if you do not respond to this request for clarification by the 61st day after the request for clarification is sent, your request is considered withdrawn.

You can respond by letter, email (rsd@flowersdavis.com) or you can reach me by phone at 903-520-4525.

Very truly yours,



Robert S. Davis

RSD/eju

Jack Winters
PO Box 9418
Tyler TX 75711-9418
(903) 617-0413
jwinters0@protonmail.com

February 20, 2020

Robert Davis
Flowers Davis PLLC
1021 ESE Loop 323 Suite 200
Tyler, Texas 75701

Re: Open Records Requests to the City of Big Sandy dated February 10, 2020.

Mr. Davis,

Thank you very much for your quick response to my Public Information Request. I am going to take this time to amend my request and correct some errors I made within it.

Original request:

- Please provide any and all documents, files, photographs in the Civil Service Files excluding any confidential information that is deemed protected by law, statute or Texas Attorney General ruling for the following officer(s): Chief of Police.

Replace with:

- Please provide any and all documents, files, photographs in Chief Tim Scott's Personnel File. This may also be known as his Employee File. The department may exclude any confidential information deemed protected by law, statute or Attorney General ruling.

Thank you very much in your prompt attention to this request.

Sincerely,

Jack Winters

CC: Chief Tim Scott

Jack Winters
PO Box 9418
Tyler TX 75711
(903) 617-0413

June 3, 2020,

Robert Davis
Council for the City of Big Sandy
1021 ESE Loop 323 Suite 200
Tyler TX 75701

Re: Open request to the City of Big Sandy dated February 10, 2020.

Mr. Davis,

I am still waiting on the responsive documents from my request. On February 20, 2020 I sent an amendment to my original request to you requesting Tim Scott's Personnel File. To date I have not received any correspondence from you or the City indicating if the documents will be provided. Could provide me with an update on my request.

Sincerely,

Jack Winters

Enclosures:

- Encl. 1 – Original open records request.
- Encl. 2 – Response from City's Attorney.
- Encl. 3 Amended open records request.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Robert Davis
Flowers Davis Law
1021 ESE Loop 323 200
Tyler TX 75701



9590 9402 5295 9154 5688 78

2. Article Number (Transfer from service label)

7019 2280 0000 3245 7334

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

CG 124

☒ Agent☐ Addressee

B. Received by (Printed Name)

Cora

C. Date of Delivery

6-4

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input checked="" type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |

FLOWERS ♡ DAVIS, P.L.L.C.

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1200 MAIN ST., SUITE 208
DALLAS, TEXAS 75202
TELEPHONE: (214) 205-6146

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STEVE M. MASON

IMMIGRATION:
VIRGINIA D. YOUNG
DANIEL C. ROSS
TELEPHONE: (903) 592-8186

August 6, 2020

Jack Winters
PO Box 9418
Tyler, Texas 75711

Via CMRRR: 7017 3040 0001 0754 2654
and Regular Mail

Re: Big Sandy Police Department Policy and Procedures Manual

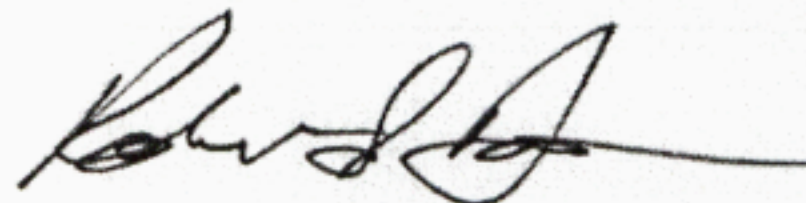
Dear Mr. Winters:

Per your request, enclosed please find the Big Sandy Police Department Policy and Procedures Manual.

Again, we apologize for the miscommunication and delay due to the COVID-19 pandemic.

Please call me if you have any questions on my cell phone at (903) 520-4525.

Very truly yours,



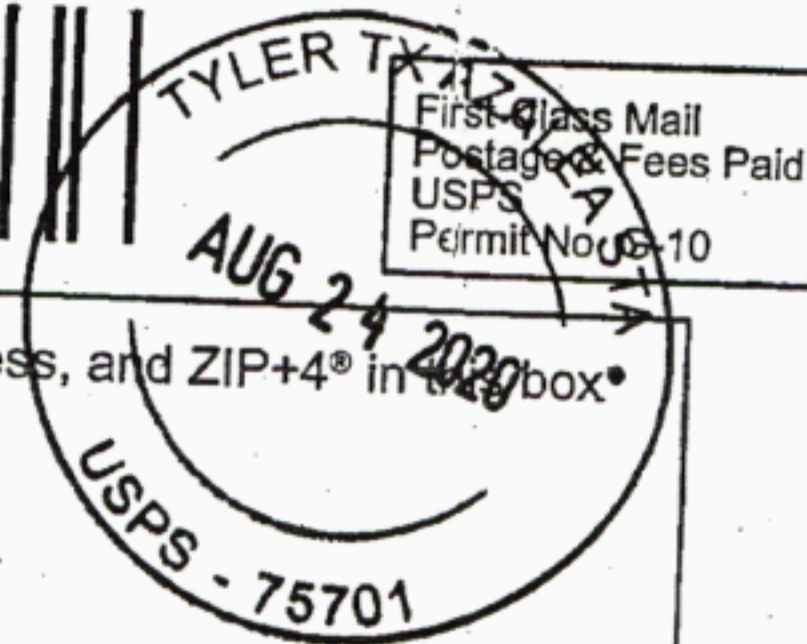
Robert S. Davis

RSD/Inb

Encl.

UNITED STATES POSTAL SERVICE
NORTH TEXAS TX 750

24 AUG 2020PM 8 L



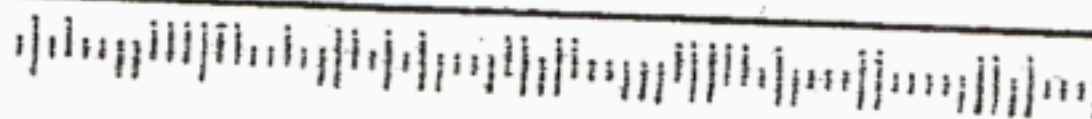
• Sender: Please print your name, address, and ZIP+4® in the box.

FLOWERS - DAVIS, P.L.L.C.
1021 ESE Loop 323, Suite 200
Tyler, TX 75701

TYLER

AUG 6 2020

TX 75701



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JACK WINTERS
PO Box 9418
TYLER, TEXAS 75711

CITY - BIG SANDY

2. Article Number
(Transfer from service label)

7017 3040 0001 0754 2654

PS Form 3811, July 2013

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X ☒ Agent☒ Addressee

B. Received by (Printed Name)

JACK WINTERS

C. Date of Delivery

8/24

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail®☐ Priority Mail Express™☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ Collect on Delivery

4. Restricted Delivery? (Extra Fee)

☐ Yes

Domestic Return Receipt

USPS Tracking®

[FAQs >](#)[Track Another Package +](#)**Tracking Number:** 70173040000107542654[Remove X](#)

Your item was delivered at 12:28 pm on August 24, 2020 in TYLER, TX 75701.

✓ Delivered

August 24, 2020 at 12:28 pm
Delivered
TYLER, TX 75701

[Get Updates ∨](#)[Feedback](#)

[Text & Email Updates](#)

[Tracking History](#)

August 24, 2020, 12:28 pm
Delivered
TYLER, TX 75701

Your item was delivered at 12:28 pm on August 24, 2020 in TYLER, TX 75701.

August 20, 2020, 1:49 pm
Available for Pickup
TYLER, TX 75711

August 12, 2020
In Transit to Next Facility

9/10/2020

USPS.com® - USPS Tracking® Results

August 8, 2020, 3:09 am

Departed USPS Regional Facility

COPPELL TX DISTRIBUTION CENTER

August 6, 2020, 11:11 pm

Arrived at USPS Regional Facility

COPPELL TX DISTRIBUTION CENTER

Product Information



See Less ^

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs

Feedback



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 8, 2020

Mr. Tim Scott
Chief
Big Sandy Police Department
P.O. Box 986
Big Sandy, Texas 75755

Dear Mr. Scott:

The Office of the Attorney General (the "OAG") has received a complaint from Jack Winters alleging the Big Sandy Police Department (the "department") has failed to respond appropriately to a request for information. The complaint was assigned ID# 840974.

The Public Information Act (the "Act"), chapter 552 of the Texas Government Code, generally requires a governmental body to release requested public information that it collects, assembles, maintains, or has right of access to, or to request a ruling from the OAG as to the applicability of exceptions to the Act. Our records do not indicate a request for an OAG ruling has been made in accordance with section 552.301 of the Act.

Although the OAG has civil enforcement authority under the Act, our office prefers to work with governmental bodies and requestors to resolve complaints informally. The easiest way to resolve this open records complaint is to release the requested information, provided the information is not confidential by law.

Please provide a written response to this letter within 10 business days. *See* 1 T.A.C. § 70.11(d)(3) (governmental body has a responsibility under the Act to promptly respond). A certification form is enclosed with this letter in order to expedite your response. You may use the form to certify: (i) the requested information has been or will be released to the requestor; (ii) the department has no information responsive to the request; or (iii) the department has requested or will request an attorney general's decision regarding the requested information. If the form is not applicable, you may provide a written response to this notification letter explaining how the department has complied with the Act. The written response may be sent to the address below or faxed to the Education and Enforcement Section at (512) 481-1992.

If you have any questions regarding this letter, please contact the Education and Enforcement Section of the Open Records Division at (877) 673-6839 or (512) 936-6736 to discuss the resolution of this complaint. You will also find resources to assist you in complying with the Act at <https://www.texasattorneygeneral.gov/open-government>.

Thank you for your prompt attention to this matter.

Sincerely,

Education and Enforcement Section
Open Records Division

Enclosure

c: Mr. Jack Winters
P.O. Box 9418
Tyler, Texas 75711
(w/o enclosure)

Jack Winters
PO Box 9418
Tyler TX 75711-9418
(903) 617-0413
Jwinters0@protonmail.com

February 10, 2020,

Tim Scott
Chief of Police
Big Sandy Police Department
203 E Gilmer St
Big Sandy TX 75755

Pursuant to Texas Government Code, Chapter 552, I hereby request the following records:

- Please provide any and all documents, files, photographs in the Civil Service Files excluding any confidential information that is deemed protected by law, statute or Texas Attorney General ruling for the following officer(s): Chief of Police.

I ask the request be filled electronically, by e-mail attachment, CD-ROM or flash drive if available. Should the information not exist in electronic format I will accept a paper copy.

In the event that there are any fees, please provide an itemized statement detailing the total charges required to fulfill my request.

Thank you in advance for your cooperation in this matter. I look forward to receiving your response to this request.

Sincerely,

Jack Winters

**PUBLIC INFORMATION ACT REQUEST CERTIFICATION FROM
GOVERNMENTAL BODY**

RE: OAG ID# 840974

Please complete this form to indicate the manner in which the referenced request will be or has been answered. Include your signature and date.

I am the officer of public information, or the authorized representative, for the following governmental body (the "governmental body"): City of Big Sandy, Texas

I am aware of a public information request to the governmental body from the requestor (the "requestor"): Jack Winters

Please initial the certification that applies.

 I certify the governmental body has made available to the requestor all existing responsive information that this governmental body owns, controls, or has a right of access to.

 X I certify the governmental body has conducted a good faith search of information that this governmental body owns, controls, or has a right of access to, and has found no such information that is responsive to the requestor's public information request.

 I certify the governmental body has supplied the requestor all existing responsive information for which the governmental body is not claiming an exception and has requested an attorney general's decision regarding the responsive information the governmental body believes is excepted from disclosure.

Public Information Officer, or Authorized Representative

Laura M Rex
Signature

09.11.2020
Date

Laura M Rex
Printed Name

City Secretary
Title



City of Big Sandy
Established 1926

Office of the City Secretary
Laura M. Rex, City Secretary

February 18, 2020

Jack Winters
PO Box 9418
Tyler TX 75711-9418

RE: Open Records Request

We have received your public information request dated February 10, 2020 requesting a copy of any and all documents, files, photographs in the Civil Service Files excluding any confidential information that is deemed protected by law, statute, or Texas Attorney General ruling for the following officer(s): Chief of Police.

There are no records responsive to this request.

Sincerely,

Laura Rex

Laura Rex
City Secretary/City Administrator

* * * Communication Result Report (Sep. 11. 2020 9:55AM) * * *

1) City of Big Sandy
2)

Date/Time: Sep. 11. 2020 9:54AM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
3423 Memory TX	15124811992	P. 2	OK	

Reason for error

m. 1) Hang up or line fail	E. 2) Busy
m. 3) No answer	E. 4) No facsimile connection
m. 5) Exceeded max. E-mail size	E. 6) Destination does not support IP-Fax

Mr. Tim Scott - Page 3

**PUBLIC INFORMATION ACT REQUEST CERTIFICATION FROM
GOVERNMENTAL BODY
RE: OAG ID# 840974**

Please complete this form to indicate the manner in which the referenced request will be or has been answered. Include your signature and date.

I am the officer of public information, or the authorized representative, for the following governmental body (the "governmental body"): City of Big Sandy, Texas

I am aware of a public information request to the governmental body from the requestor (the "requestor"): Jack Winters

Please initial the certification that applies.

☐ I certify the governmental body has made available to the requestor all existing responsive information that this governmental body owns, controls, or has a right of access to.

☒ I certify the governmental body has conducted a good faith search of information that this governmental body owns, controls, or has a right of access to, and has found no such information that is responsive to the requestor's public information request.

☐ I certify the governmental body has supplied the requestor all existing responsive information for which the governmental body is not claiming an exception and has requested an attorney general's decision regarding the responsive information the governmental body believes is excepted from disclosure.

Public Information Officer, or Authorized Representative

Laura M Rex
Signature

09.11.2020
Date

Laura M Rex
Printed Name

City Secretary
Title