



November 30, 2012

Honorable Chairman Ellis and members of the Senate Committee on Open Government:

Thank you for taking time to read my written testimony today. My name is Shanae Jennings and I am the City Secretary of Irving. I am also the former City Secretary of Bedford and Prosper and a 15-year public servant in Texas government. I am the officer for public records; in my position I am responsible for the promotion of transparency in local government operations and a steward of responsible fiscal management for the citizens of Irving.

Irving is supportive of possible changes and evaluation of the Texas Public Information Act (TPIA), primarily as it pertains to abusive offenders of the Act. Please allow me to attest to some of the ancillary issues that we experience administering open records requests.

The TPIA is a good law, but even good laws can be improved upon. In 2007, the legislature acted to improve the chapter and implemented Section 552.275 of the Government Code. That law allows local governments to address excessive costs of gathering records for requestors. Local governments were thankful for the responsiveness and leadership of the legislature on this issue; however, loopholes that lend to problems still remain.

I'd like to call your attention to certain requestors that chronically abuse the process and effectually impeded quality service delivery to other residents and requestors utilizing the open records process as it was intended -- for reasonable access of requests for information.

Like most cities, our city has a few requestors who demand an inordinate percentage of our time and resources. In FY 2007-2008 a single requestor submitted 398 requests, or 40% of the total number of requests submitted in the City of Irving. This same requestor in FY 2008-2009 submitted 320 requests equaling 32% of the total number of requests that year. In FY 2009-2010 yet again the same requestor submitted 331 requests for 28% of the total number of request received in Irving. This pattern has consistently continued as the Committee can see in the attached "Abusive Requestor Stats" sheet provided to you.

For the fiscal years (Oct 1 - Sept 30) beginning 2009 through 2012 these request equal to the following volume:



A single requestor has managed to:

- 1) Fill up the two, four-inch binders per annual Fiscal Year
- 2) Two, four-inch binders is equal to two reams of paper per binder
- 3) A ream of paper contains 500 pages, for a total of 1000 pages per four-inch binder
- 4) The grand total for six, four inch-binders over three Fiscal Years will equal 6000 pages worth of open records requests.

These are requests that staff has to review, delineate, locate the information, copy the information, calculate the costs, determine information to be redacted and or seek an AG opinion on, and then respond to the requestor. This specific requestor's average open records request contains over five pages of content, typically yielding only one sentence describing the document(s) being sought. In order to circumvent the act the requestor may submit 11 separate requests in one day, which may produce under 10 pages of copied documents; therefore, never paying more than \$1 per request. However, the staff time to process those requests can often times be in the hundreds of dollars, which inevitably is being paid for by the tax payer.

The TPIA currently allows us to bill that specific requestor a very small percentage of the time actually expended in processing these requests. Where we have been able to bill the requestor for a total of 35 hours and 21 minutes in FY 2011-2012 when 312 requests were received; we in reality spent, on average, a minimum of 156 hours or a maximum of 312 hours processing and responding to this requestor during this year. Averages were determined based on a conservative 30 minutes at minimum and an hour at maximum. That is over a month of man hours spent on processing a single individual's requests. The actual unrecoverable costs vary depending on which personnel responds to the request. If I, as the City Secretary, personally respond to the request the tax payers are spending approximately a minimum of \$9,311 and a maximum of \$18,623 a year in order for me to respond to one member of the public's total annual accumulative records requests. Thus far this FY, since October 1, this requestor has submitted 52 requests, totaling 20% of our overall request. We are not even in December yet.

Abusive requestors are disruptive, impede government efficiency and harass workers who work to serve the public as a whole. A remedy should be crafted to provide some relief from abusive requestors. We appreciate the goals and the spirit of the TPIA. As a public servant for many years I support open government transparency and serve proudly as the face of the office that provides this transparency. The TPIA is important; it should not be lost by allowing the abuses of a few.



In these trying budget times with limited staff resources, stolen time is not a luxury city governments have. Layoffs, furloughs, and lean budgets are not issues being dealt with only at a federal and state level. They insurmountably impact local governments as well. We respectfully ask for your consideration and help seeking a remedy for dealing with abusive requests made for the purpose of harassment. We not only come seeking remedies but are prepared to help offer solutions to the problem which would be beneficial to all parties; while not hampering the transparency of the greater good, but controlling those who choose to abuse the process.

In the last legislative session, cities worked with the Texas Senate under SB 669 to come up with a solution that may reduce the abuse of the TPIA. The suggested guidelines are below:

- If the requestor has submitted to the governmental body seven or more written requests for information during the preceding 31 calendar days, notwithstanding any other sections or rule, the requestor would be required to pay the actual costs incurred in responding to another request.
- After receiving multiple requests, in excess of seven per month the governmental body may give a written estimate (within 10 days) of the costs of administering additional requests. If the requestor would like the entity to process additional requests within the same month, the requestor must submit a statement in writing to the governmental body committing to pay the actual costs incurred.
- The public information office must fully document the existence and amount of those unpaid amounts incurred or the amount of any anticipated costs, and require a deposit or bond for payment of unpaid amounts owing to the governmental body in relation to previous requests before future requests are processed.
- Require the attorney general by rule to define "actual costs" for the purposes of this section: can include materials, personnel time, and overhead expenses necessary to comply with the request.

Those who do not unnecessarily burden or abuse the process are not impacted.

If I can provide any additional information, please let me know.

Respectfully,

Shanae Jennings  
City Secretary, City of Irving