

Texas Open Records Law For Bloggers

I. About The Author- Robert Guest, JD

I am a Dallas criminal defense lawyer, blogger, and a member of the NORML legal committee.

For More Information (or if you get busted)-
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Finally, never consent to a search, never take field sobriety tests, and always ask for an attorney.

II. Introduction-

Open Records provides a great way to break news on your blog. This is an area where bloggers have an advantage over the MSM. You are smarter, faster, and more dedicated. So make some news and file some requests!

This paper will help guide you through the Texas Open Records laws (spoiler alert- it is really easy).

The Best Texas Open Records Information-
www.oag.state.tx.us

III. Austin Energy/Austin Police-

I received an email from the NORML listserv that stated Austin Police were accessing the Austin Energy database to find marijuana growers, sans warrant.

I had no names, no criminal case information, only one email. I fired off a quick open records request to the Austin Police Department. I expected little to come of it. In the end I confirmed this police practice, generated thousands of hits on my blog, and helped generate a story in the Austin American Statesman. Until then, I had little knowledge of Texas Open Records.

The lesson- Start requesting now, learn the rules later! There is no downside to requesting these records.

IV. Your Open Records Request

In Writing- The only requirement is that the request be in writing. No magic language is required. Fax, letter, and email are all acceptable.

Email requests- I prefer email requests. It's easy to keep track of your requests that way and it saves postage.

Email Tip- I always include "Please accept this email as an open records request." It's not required though.

Identify yourself- Include your name, address, phone, fax and email address. It's not required, however it helps expedite matters.

V. Whom To Request Records From-

Google your entity and search for the Open Records or Public Information Office (PIO).

If you can't find an open records office (common for small towns), just send your request to whatever address/email you can find. That works 90% of the time.

VI. What Information Is Available Through Open Records?

Public information includes any information that is collected, assembled, or maintained by or for a government entity.

The government doesn't have to create new material for you. They only have to copy what they have. Documents, reports, email, manuals, DVDs, computer files, letters, are all available.

VII. What Information Is Exempt From Disclosure?

Who cares? There is a 288 page guide from the Attorney General on what is and isn't available. Don't read it. The law is vague and confusing. Just ask for what you want and let Attorney

General rule (see XI). The best way to learn what you can/can't get, is by requesting.

VIII. What To Ask For-

When You Know What You Want-

I usually ask for "any and all documentation, letters, emails, regarding _____." If you want media (DVDs) ask for those as well.

Be specific. If you want TPS reports, ask for them.

Email \$- I usually ask for email, but it is expensive.

When You Don't Know What You Want-

Many bloggers do not have an understanding of the nomenclature of Texas government. For example, I did not know the exact procedures used by Austin Police to search Austin Energy records.

I use a "background" or "summary" paragraph describing the information I want. This helps the bureaucrat to the right information

Why Are You Asking? You are under no obligation to tell the government why you are asking for information or what you want it for.

IX. Open Government Isn't Free-\$\$\$

The government will request that you reimburse them for expenses. Before sending you the information the government will send you a bill for expenses.

If you get a huge bill do not abandon your efforts. Request a breakdown of the expenses and cut the fat. Call the PIO officer and see what documents you need, and what you can cut. Many open records request contain useless cover sheets and other red tape junk.

X. The Attorney General Request-

If the government does not want to turn over information will request an Attorney General

(AG) Opinion. The government will claim the information is protected, and that police officer's lives will be in danger if they release the information, and... they are usually wrong.

The AG then rules on what documents, if any, you get. You do NOT have to respond. I never write the AG, and I win over 50% of the time.

XI. The AG Decision

If the AG rules against you-
You can file a lawsuit to appeal this decision. I'm too busy to sue. Denials do make good blog material.

If the AG rules for you-
The information will be sent. The government can and will still ask for payment. Blog about victories too, talk about how freedom and sunshine triumphed.

X. Law Enforcement Records- The Law

Don't read this. Just ask for what you want. If you really want to know the law, read on.

Information, internal records or notations of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime can be withheld if-
Release of the information would interfere with the detection, investigation, or prosecution of crime; (they always claim this one)
The information deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;
The information relates to a threat against a peace officer or detention officer; or
The information is work product of government attorneys.

BOTTOM LINE- Request first, ask questions later.