

May 25, 2011

Open Records Division  
Office of the Attorney General  
State of Texas  
PO BOX 12548  
Austin, TX 78701

Open Records Division:

With this letter, I am requesting the Texas Attorney General Open Records Division's help with an overcharge for producing public information.<sup>1</sup>

I am a requestor of open records from Duncanville, TX. Exhibit A is a copy of my open records request. The request is essentially for all facts related to each red light violation recorded at traffic intersections monitored by Duncanville's red light camera enforcement network (*e.g.*, violation date/time, seconds after red that violation occurred, *et al*). This network is run by Redflex, a private vendor that supplies and runs networks of red light ticketing cameras in several Texas jurisdictions.

The responsive data is to support a statistical analysis project. It will be part of a doctoral praxis for my in-progress doctorate at Southern Methodist University.

Duncanville's response, with cost estimates, is attached as exhibit B.

You will note that Duncanville proposes charging \$175 per hour for four hours of labor to produce data responsive to my request, for a total of \$700. This charge is unlawful and unreasonable for these reasons:

### **Reason 1: The \$700 charge assumes redaction of data that may not be redacted**

I previously made functionally identical open records requests to Coppell, Grand Prairie, and Mesquite, all of which also use Redflex. Redflex's cost estimates to these cities are attached as exhibits C, D, and E. Duncanville did not share their Redflex response with me. However, since Redflex appears to be producing almost identical letters to all cities, and since Duncanville also says there will be a \$700 charge to produce the responsive data, it is reasonable to assume Redflex's cost estimate for Duncanville is identical to the other three cities.

On page two of each letter, Redflex states:

Building a query to remove all personal identifying information would entail extensive programming and development...

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<sup>1</sup> This letter is per Texas Government Code section 552.269, Texas Government Code: "A person who believes the person has been overcharged for being provided with a copy of public information may complain to the attorney general in writing of the alleged overcharge..."

Near the end, Redflex states:

...to provide a report **with all personal identifiable data redacted** would require special programming; we estimate 4 minimum hours billable at \$175.00 per hour payable in advance; total sum of \$700.00 payable to Redflex Traffic Systems Inc.

(original emphasis retained)

Through its own emphasis, Redflex appears to believe that a lot of the open records costs are due to a need to redact information.

This expense is unnecessary for two reasons:

First, in Open Records Letter Ruling OR2011-05433 (attached as exhibit F), Assistant Attorney General Sean Nottingham found no merit to almost all of Redflex's and Grand Prairie's objections to disclosing the responsive data.

There remains one last dispute, embodied in Duncanville's May 9, 2011 request for an Attorney General open records opinion (exhibit G). As with Redflex's prior disputes, this dispute is also meritless. I've enclosed a copy of my formal response to Duncanville's decision request as exhibit H.

Second, it is laughable to allege that 4 hours of programming time are needed to omit or sanitize certain columns from a database. Such an action, in the context of a database table export, is a trivial modification of a SQL command<sup>2</sup>. I say this as an information technology professional<sup>3</sup> and as a holder of a Master of Science degree in Computer Science.

## **Reason 2: The \$700 charge is for a report that I am not requesting**

Nowhere in my original request do I ask for a report. In fact, my leading paragraph states I am requesting an "electronic dump".

This distinction is important. In common parlance, a "dump" is a straight copy of data without any manipulation or massaging. A "report" is a different matter, involving preparation and manipulation of data.

A report requires an order of magnitude more effort than a dump.

## **Reason 3: Redflex's rates do not comply with the law**

Open Records Letter Ruling OR2011-05433 (exhibit F) found that:

- "The obligations of a governmental body under [Texas open records law] cannot be compromised simply by its decision to enter into a contract [with Redflex]."

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<sup>2</sup> SQL is Structured Query Language, is the universal code language used by modern database systems.

<sup>3</sup> I am a part time doctoral student. I have been a full time information technology professional for almost 12 years, specializing in web systems and development.

- “[T]he responsive information is collected and maintained by Redflex as an agent for the city and in connection with the city's official business.”

The confluence of these findings means that, when acting on behalf of a jurisdiction that received an open records request, Redflex must comply with the same obligations as the jurisdiction.

One obligation is “The hourly charge for a programmer is \$28.50 an hour” (Texas Administrative Code, Office of the Attorney General (Part 3), rule §70.3). Redflex’s \$175 per hour rate is far higher.

## Conclusion

Please understand that ruling in Duncanville’s or Redflex’s favor is a major blow to the open records process. Jurisdictions may effectively stop lawful disclosures by outsourcing essential government functions to companies that, like Redflex, impose exorbitant, arbitrary charges, and demand to perform unnecessary labor, in complying with simple open records requests.

Texas Government Code is expected to be “liberally construed in favor of granting a request for information”; supporting my case is critical to maintain the intent of the Public Information Act.

Please don’t hesitate to contact me if you have any questions.

Thank you,

Aren Cambre, Doctoral Student  
Southern Methodist University  
PO BOX 750262  
Dallas, TX 75275-0262

Email: [acambre@smu.edu](mailto:acambre@smu.edu)

Phone: 214-213-2772