



Publisher
Dawn Nettles

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P. O. Box 495033
Garland, Texas
75049-5033
Phone: (972) 686-0660
Fax (972) 681-1048
lottoreport@lottoreport.com

August 7, 2020

Ms. Deanne Rienstra
Texas Lottery Commission
P. O. Box 16630
Austin, Texas 78761-6630

Ms. Rienstra:

It has come to my attention that I failed to expand on an issue you raised in your July 9th letter. You said, *“In current fiscal year 2020, from September 1, 2019 though April 27, 2020, (the day you reached the 36 hour limit on agency personnel time set forth in the TLC’s rules), the TLC received 644 PIRs. Of that amount, you filed 257, or 39% of all PIRs.”*

I perceived that remark as an insinuation that I might be abusing my right to obtain public information. So let’s put my 257 requests in perspective.

Using your dates - Sunday, Sept 1 through Sunday, April 26 - there were 35 weeks. During the 35 weeks, there were 4900 drawings held. (See Exhibit 1)

**Now let’s review roughly 225 of the 257
Open Records requests I made**

- 35 - Requested upcoming scratch games, artwork, prize structures and end of production prize structures
 - 35 - Requested the Weekly Instant Ticket Summary Report
 - 35 - Requested draw stats and incident reports for the 140 drawings the TLC had held that week.
 - *20 - Requested the Weekly Sales Summary Report
 - *50 - Requested the MUSL Powerball Draw Report
 - *50 - Requested the MUSL Mega Millions Draw Report
- (The actual requests are shown in Exhibit 1)*

* Reduced & est requests: 1) I quit requesting the Weekly Sales summary once I learned it was posted online. 2) I quit making separate requests for each MM and PB Draw Reports. Rather, I reduced to two requests per week rather than 4 per week. There were 68 MM and 68 PB draws during the 35 weeks (136 draws).

$35 + 35 + 35 + 20 + 50 + 50 = 225$ requests were made solely for - **Weekly Reports & very public financial and game data.** Information **vital** for me to do my work. This means that approximately 32 of the 257 requests were misc requests. Please note, NOT included were requests I made for audited sales, audited unclaimed prize reports, winners reports, promotional information (retailer lists) showing where players can obtain FREE Lotto Texas tickets each month.

Now, there are times, when I’m working on a story, that I’m forced to make excessive requests due to denials, excessive charges or “clarifications” but it wasn’t the case during this time frame. Read *“An Open Records Nightmare”* at:

<http://www.lottoreport.com/perkstransparencya.htm>.

Having explained 225 of the 257 total requests referenced in your letter, it is my opinion the TLC has failed to adhere to 552.275 (a) which says

- Government code 552.275 Subsection (a) *A governmental body **may establish reasonable** monthly and yearly limits on the amount of time that personnel of the governmental body are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time.*
- Government code 552.275 Subsection (b), *A yearly time limit established under Subsection (a) **may not be less than 36 hours** for a requestor during the 12-month period that corresponds to the fiscal year of the governmental body. A monthly time limit established under Subsection (a) **may not be less than 15 hours** for a requestor for a one-month period.”*

The Texas Lottery conducts 140 draws per week, 7280 draws per year, sells 75 to 80 scratch games yearly and enjoys sales in excess of \$6 billion. I’ve just shown, by simply requesting 5 separate reports and/or draw sales reports and by requesting scratch game data weekly for JUST 35 weeks, I was out of time. Are these reports not for public scrutiny?

How could the TLC set the **MINIMUM time limit allowed by law** as their maximum amount of time for providing public information to requestors. It appears obvious that “36 hours” is NOT a “**reasonable**” allotment of time. This mandate speaks volumes as to lack of integrity. (For the record, I am aware that the code says “MAY” and not “SHALL” allowing the TLC to get away with this action.)

If the TLC wants to reduce my requests, maybe they should simply post, on their website, the very information I request each week without deleting the information currently included in these reports. It IS, after all, public financial data and public game information.

The purpose of this letter was to address the number of Open Records requests referenced in your letter and to hopefully show the Commission the time limit assessed in the rule is insufficient and not “reasonable” as required by law. I still claim I qualify to be exempt from time limits per Gov Code 552.275(j) and I’m still waiting for you to show me where in my deposition I was asked if I had any other “for profit” publications.

Sincerely,

Dawn Nettles
Publisher

cc: The Honorable Senator Jane Nelson
TX AG, Open Records Division, Jahanna Ward #842898
Kelly Shannon, Freedom of Information
Harvey Kronberg, Quorum Report
Jeff Kelly Lowenstein
Dave Lieber, Dallas Morning News
Eric Dexheimer, Houston Chronicle
Ken Herman, Austin American Statesman
Commissioners Krause, Fields, Franz, Rivera, Saenz

- Exhibit 1 -

**Total Draws, Dates of the 35 Weeks
& The 5 Ritual Weekly Open Records Requests**

Game	Mon	Tues	Wed	Thurs	Fri	Sat	Total Week
Pick3	4	4	4	4	4	4	24
Pick3 Fireball	4	4	4	4	4	4	24
Daily 4	4	4	4	4	4	4	24
Daily 4 Fireball	4	4	4	4	4	4	24
All or Nothing	4	4	4	4	4	4	24
Cash 5	1	1	1	1	1	1	6
Texas 2 Step	1			1			2
Mega Millions		1			1		2
Megaplier		1			1		2
Powerball			1			1	2
Powerplay			1			1	2
Lotto Texas			1			1	2
Extra			1			1	2
Total Draws	22	23	25	22	23	25	140

Sunday's - Sept 2019 thru April 2020 - 35 Weeks Total

Sept	Oct	Nov	Dec	Jan	Feb	March	April	
1	6	3	1	5	2	1	5	
8	13	10	8	12	9	8	12	
15	20	17	15	19	16	15	19	
22	27	24	22	26	23	22	26	
29			29			29		
5	4	4	5	4	4	5	4	35 Wks

Weekly Open Records Requests

1. Please provide a copy of all approved camera ready art (back & front side) for any and all future scratch games. This would be any art approved on since you filled my last request. Please send by email.

If any scratch ticket was sent to the printer since my last request, I would like to obtain whatever document that was sent to the printer showing quantity of tickets ordered and how many prizes the TLC is ordering for each prize category to make the odds printed on the ticket correct.

I would also like to receive any newly created prize structures for reprinting tickets & any end of production prize structures (by email). Please make certain that you include re-ordered tickets too.

 2. I would like to receive a copy of the Instant Ticket by Game Report. Also, would you please show an "as of" date on this report.

 3 I would like to receive copies of any Incident Reports for any/all online drawings held the week of Aug 3 - 9, 2020 (if there are any). This is all online games including Powerball and Mega Millions.

I would like to receive the "Statistics Report" for the Lotto Texas & Powerball draws held on Aug 5 & 8, 2020 and the Mega Millions drawing held on Aug 4 & 7, 2020.

 4. In EXCEL - I would like to receive the MUSL Sales Report that shows Mega Millions DRAW, Megaplier DRAW sales & JJ draw sales broken down by ALL states/jurisdictions for the drawing Aug XX & XX7, 2020.

In EXCEL - I would like to receive the MUSL Draw Report - Analysis of Accounts - for the Aug XX & XX, 2020 Powerball drawing.

 5. Would you send me a copy of the XXX Weekly Sales Report.