

CAUSE NO. D-1-GN-19-006208

<b>JAY ROOT and SHANNON NAJMABADI</b>	§	<b>IN THE DISTRICT COURT</b>
<i>Plaintiffs</i>	§	
	§	
v.	§	
	§	
<b>2019 TEXAS INAUGURAL COMMITTEE;</b>	§	
<b>KIMBERLY CLARKE SNYDER, as</b>	§	
<b>EXECUTIVE DIRECTOR/OFFICER FOR</b>	§	<b>TRAVIS COUNTY, TEXAS</b>
<b>PUBLIC INFORMATION;</b>	§	
<b>J. BRUCE BUGG, Jr. as CHAIR; RAY L.</b>	§	
<b>HUNT, as CO-CHAIR; MINDY HILDEBRAND</b>	§	
<b>as CO-CHAIR; GOVERNOR GREG ABBOTT</b>	§	
<b>as OFFICER FOR PUBLIC INFORMATION;</b>	§	
<b>SECRETARY OF STATE RUTH R. HUGHS;</b>	§	
	§	
<i>Defendants</i>	§	<b>201<sup>st</sup> JUDICIAL DISTRICT</b>

**PLAINTIFF’S 1<sup>st</sup> AMENDED PETITION FOR MANDAMUS AND DECLARATORY JUDGMENT**

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiffs Root and Najmabadi (“Requestors”) file this amended petition to add appropriate defendants and claims. As reporters for the Texas Tribune, Requestors submitted public information requests to the TPIA Defendants (all defendants except the Secretary of State) and bring suit for disclosure of records of the 2019 Texas Inaugural Committee (“Committee), a statutorily created Texas state agency, in the possession of the TPIA Defendants. Requestors seek declaratory judgment that the Secretary of State’s attempt to dissolve the Committee, *after this lawsuit was filed and knowing a TPIA request for the Committee records was pending*, was an unlawful attempt to permit destruction or concealment of the records.

**NATURE OF THE CASE AND DISCOVERY CONTROL PLAN**

*“Where did that stuff go?”*

- 1. a. This case tests whether State officials can lawfully conceal public information of a

state agency about the collection and expenditure of \$5.3 Million by making the state agency just disappear, or at least go into hiding. “Where did that stuff go?” is the unanswered question that Requestor Root asked about the Committee records in an email on September 16, 2019 to the Committee Executive Director, Kimberly Clarke (Kim) Snyder, after Ms. Snyder claimed the Committee had no records at all! Exhibit P-4. The 2019 Committee collected and spent an unprecedented \$5.3 Million so friends of the Governor and Lt. Governor could celebrate taking their oath of office in January 2019. Since state agency records of the Committee could not be destroyed without criminal violation of the State Records Act or Penal Code § 37.10(a), and since bank account records and credit card statements, for example, must still exist and be accessible by the Committee personnel, Ms. Snyder’s false response that the Committee has no records is tantamount to refusing to supply this public information. Requestors assert that the Committee personnel do have the records or have a right of access to the records and that the response indicates that the Committee is violating the TPIA and refusing even to request an Attorney General’s ruling under the TPIA to withhold the records or is refusing to preserve and supply this public information in violation of the TPIA. The Governor’s Office has indicated that it has some or all of the Committee records, but refused to divulge information, such as, which non-profit entities received over \$800,000 in donations from the Committee’s unspent funds and has refused to disclose other records involving the Committee.

b. The 2019 Texas Inaugural Committee (Committee) is a state agency, created under Tex. Gov’t Code ch. 401, which received both public funds and private funds for the official work of the Inauguration of the Governor and Lt. Governor of Texas and was statutorily required to keep records of its activity. The records of the Committee are “state records” that must be preserved under Tex. Gov’t Code ch. 441 and are subject to disclosure under the Texas Public Information

Act (Tex. Gov't Code ch. 552). Exhibit P-1 (letter from the Attorney General, holding the Committee is a state agency).

c. On September 4, 2019, Requestors sent a request for Committee records of expenditures, contributions, bids and contracts, and correspondence to the Committee Chair and Co-Chairs. Exhibit P-2A, P-2B, P-2C. Requestors specifically asked Committee officials to preserve their records. On September 5, 2019, Bill Aleshire, as attorney for Requestors, sent a records preservation letter to the Committee CPA firm Atchley & Associates to whom the Committee apparently supplied financial records for the June 27, 2019 CPA Report on the Committee filed with the Secretary of State and notified the firm that Requestors intended to take their deposition. Exhibit P-7. Even before the Requestors served any discovery requests, on October 28, 2019, the Committee filed a Motion for the Court to “grant a protective order prohibiting any attempts to notice depositions, serve subpoenas, or otherwise conduct discovery, and order any discovery stayed.” The Committee claims it can’t be sued because the Secretary of State dissolved it and asked the Court to prevent Requestors from even finding out what records exists and who has them!

d. On September 9, 2019, via email correspondence with staff of the Texas Secretary of State, Requestors learned that the Committee had not been dissolved. Immediately, counsel for the Requestors asked the Secretary of State not to dissolve the Committee until the public information requests had been fulfilled and noted the statutory requirement (Tex. Gov't Code § 441.194 that, if the Committee was dissolved, that its records be turned over to the State Comptroller. Exhibit P-3. The Secretary of State ignored the law and issued a proclamation purporting to dissolve the Committee effective September 19, 2019. Exhibit P-5.

e. Discovery will be conducted under TRCP 190.3, Level 2.

## **CLAIM FOR RELIEF**

2. Plaintiffs seek nonmonetary mandamus relief from the TPIA Defendants pursuant to Tex. Gov't Code § 552.321. TRCP 47(c)(2). Plaintiffs seek declaratory relief pursuant to Tex. Civ. Prac. Rem. Code ch. 37, based on the Secretary of State committing an *ultra vires* act dissolving the Committee while a lawsuit and public information request was pending.

## **PARTIES**

3. a. Plaintiffs Jay Root and Shannon Najmabadi, the requestors of information under the TPIA, and residents of the City of Austin, Travis County, Texas can be served through their attorney-of-record in this case.

b. TPIA Defendant, 2019 Texas Inaugural Committee, is a state agency and is a defendant pursuant to TPIA section 552.321 as being one of the governmental bodies to whom Requestors submitted their requests for information and that refused to supply the public information. The Committee is represented by the Texas Attorney General and has filed an Answer in this case.

c. New TPIA Defendant, Kimberly Clarke Snyder, is the Executive Director and, by law, the Officer for Public Information for the 2019 Texas Inaugural Committee who has a statutory duty to preserve the Committee records and to disclose the records upon receiving Requestors' request under the Texas Public Information Act. Ms. Snyder may also be a "temporary custodian" as a former Committee official/employee of records in her personal possession pursuant to TPIA section 552.003(7). Kimberly Clarke Snyder is a resident of Travis County and can be served at either (a) Greg Abbott Campaign, 502 E 11th Street, 4th Floor, Austin, TX 78701; or (b) 9201 Gaur Court, Austin, TX 78749.

d. New TPIA Defendant, J. Bruce Bugg, Jr. is the Chair of the 2019 Texas Inaugural

Committee, alternatively the Officer for Public Information and a “temporary custodian” of the records, and an officer who has a statutory duty to preserve the Committee records and to disclose the records upon receiving Requestors’ request under the Texas Public Information Act. TPIA Defendant J. Bruce Bugg can be served at 410 Elizabeth Road, Terrell Hills, Texas 78209.

e. New TPIA Defendant, Ray L. Hunt is the Co-Chair of the 2019 Texas Inaugural Committee, alternatively the Officer for Public Information and a “temporary custodian” of the records, and an officer who has a statutory duty to preserve the Committee records and to disclose the records upon receiving Requestors’ request under the Texas Public Information Act. TPIA Defendant Ray L. Hunt can be served at either (a) 1900 N. Akard Street, Dallas, Texas 75201; or (b) 5915 Steuben Ct., Dallas, Texas 75248; or (c) 5904 Steuben Court, Dallas, TX 75248.

f. New TPIA Defendant, Mindy Hildebrand is the Co-Chair of the 2019 Texas Inaugural Committee, alternatively the Officer for Public Information and a “temporary custodian” of the records, and an officer who has a statutory duty to preserve the Committee records and to disclose the records upon receiving Requestors’ request under the Texas Public Information Act. TPIA Defendant Mindy Hildebrand can be served at either (a) 3646 Ella Lee Ln., Houston, Texas 77027 or (b) 1111 Travis, Houston, TX 77002.

g. New TPIA Defendant, The Honorable Greg Abbott, in his capacity as Governor of Texas, is the Officer for Public Information for the Governor’s Office, a “governmental body” under the TPIA, as it relates to records of that office requested by Requestors, and is also in possession of Committee records. Governor Greg Abbott can be served at the 1100 Congress, Capitol Bldg., 2<sup>nd</sup> Floor, Governor’s Office, or in the alternative at Office of the Governor, State Insurance Building, 1100 San Jacinto, Austin, Texas 78701.

h. New Defendant, The Honorable Ruth R. Hughs, in her capacity as Secretary of

State, issued the disputed proclamation purporting to dissolve the 2019 Texas Inaugural Committee while the TPIA request was pending and after this lawsuit was filed. Defendant Ruth R. Hughs, Secretary of State can be served at the 1100 Congress, Capitol Bldg., Room 1E.8, Austin, TX 78701.

### **JURISDICTION & VENUE**

4. The Court has jurisdiction over this case under Tex. Gov't Code (Texas Public Information Act (TPIA)) section 552.321 which also makes venue mandatory in this Court for suit against a state agency. Based on Plaintiffs' claim of its rights under the TPIA, the Court has jurisdiction to grant the declaratory relief under the UDJA against the Secretary of State based on the Secretary's lack of authority to dissolve the Committee while the TPIA request and lawsuit is pending—effectively interfering in Plaintiffs' TPIA rights.

### **FACTS**

5. a. In addition to the following facts, Paragraph 1 is incorporated herein. Tex. Gov't Code ch. 401 creates the Committee whose Co-Chairs must take the constitutional oath of office after being appointed by the Governor and Lt. Governor. Tex. Gov't Code Sec. 401.002. "ORGANIZATION, POWERS, AND DUTIES OF COMMITTEE. (a) As soon as possible after the members of the committee have been appointed, they shall convene at a time and place designated by the individual appointed chairman, take the constitutional oath of office, and hold an organizational meeting."

b. Tex. Gov't Code section 401.007 says:

*In addition to maintaining records required by law with regard to the expenditure of appropriated funds, the committee shall maintain a record of each expenditure of nonappropriated funds. The record must contain the following information about each expenditure:*

(1) the name and address of the entity to whom the expenditure was paid;

- (2) the amount of the expenditure;
- (3) the date of the expenditure; and
- (4) the purpose of the expenditure.

c. The Committee's records are included within the definition of "state records" in Tex. Gov't Code sections 441.031 and 441.180(11) and are subject to records preservation under that statute and rules of the Texas State Library & Archives Commission. Pursuant to Tex. Gov't Code section 401.008(c), after the Committee submits a summary report of its finances to the Secretary of State, the Secretary can issue a proclamation dissolving the Committee. However, on September 9, 2019, Requestors learned that the Secretary of State had not yet issued the dissolution proclamation, and Requestors' attorney asked the Secretary of State to not dissolve the committee until the public information requests were answered. Exhibit P-3. On September 16, 2019, Requestors' attorney notified the Secretary of State and State Comptroller that, even if the Committee is dissolved, all of its records—including those maintained directly by the Committee personnel—must be turned over to the State Comptroller pursuant to Tex. Gov't Code section 441.194. Exhibit P-3.

6. In addition, the TPIA requests at issue in this case were made after September 1, 2019, the date SB 944 took effect. The Committee was not dissolved when SB 944 took effect, and that law imposed obligations on the Committee officials/employees, including its Officer for Public Information Kim Snyder, to take steps to preserve the requested records:

Sec. 552.004. PRESERVATION OF INFORMATION. (a) A governmental body or, for information of an elective county office, the elected county officer, may determine a time for which information that is not currently in use will be preserved, subject to Subsection (b) and to any applicable rule or law governing the destruction and other disposition of state and local government records or public information.

(b) A current or former officer or employee of a governmental body who maintains public information on a privately owned device shall:

(1) forward or transfer the public information to the governmental body or a governmental body server to be preserved as provided by Subsection (a); or

(2) preserve the public information in its original form in a backup or archive and on the privately owned device for the time described under Subsection (a).

(c) The provisions of Chapter 441 of this code and Title 6, Local Government Code, governing the preservation, destruction, or other disposition of records or public information apply to records and public information held by a temporary custodian.

Tex. Gov't Code § 552.004, eff. September 1, 2019.

7. The Committee officers/employees who maintained the Committee records on their personal devices do not own that information; that information is “public information” and “state records” as defined by law.

Sec. 552.233. OWNERSHIP OF PUBLIC INFORMATION. (a) A current or former officer or employee of a governmental body does not have, by virtue of the officer's or employee's position or former position, a personal or property right to public information the officer or employee created or received while acting in an official capacity.

Tex. Gov't Code § 552.233(a) , eff. September 1, 2019.

“Public Information” includes the Committee records the Requestors sought:

Sec. 552.002. DEFINITION OF PUBLIC INFORMATION; MEDIA CONTAINING PUBLIC INFORMATION. (a) In this chapter, "public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) *owns the information;*

(B) *has a right of access to the information; or*

(C) *spends or contributes public money for the purpose of writing,*



producing, collecting, assembling, or maintaining the information; or

(3) *by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.*

(a-1) Information is in connection with the transaction of official business if the information is *created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.*

(a-2) The definition of "public information" provided by Subsection (a) applies to and includes any electronic communication created, transmitted, received, or maintained *on any device* if the communication is in connection with the transaction of official business.

Tex. Gov't Code § 552.002 (emphasis added).

#### **COUNT 1 – SUIT FOR MANDAMUS**

8. The facts stated above are incorporated here as the basis for this cause of action for mandamus. Pursuant to the TPIA, Tex. Gov't Code section 552.321, Plaintiffs Root and Najmabadi bring this suit for mandamus against the 2019 Inaugural Committee and the TPIA Defendants and ask the Court to order Defendants and their personnel to supply all the information Root and Najmabadi requested or, in the alternative, to require the Committee to request a ruling pursuant to TPIA section 552.301 on any records the Committee or TPIA Defendants attempt to withhold from disclosure.

#### **COUNT 2 – DECLARATION REGARDING SECRETARY OF STATE'S UNLAWFUL DISSOLUTION OF THE COMMITTEE**

9. Requestors seek a declaration pursuant to the UDJA, based on Requestors rights under the TPIA and this Court's jurisdiction pertaining thereto, that the Secretary of State's Proclamation purporting to dissolve the Committee (Exhibit P-5) was unlawful and the Secretary was without

authority to dissolve the Committee after the Requestors made requests for the Committee records and while this lawsuit was pending. The Secretary's authority under Tex. Gov't Code § 401.008(c) to dissolve the Committee, must be read in conjunction with—and is restrained by—TPIA (Tex. Gov't Code) § 552.004(c) which incorporates the State Records Act (Tex. Gov't Code ch. 441) which prohibits destruction of the Committee records under these circumstances. The law mandates preservation of such state records *so rights to disclosure under the TPIA are not lost*. The Secretary's action, even after being put on notice of the pending TPIA requests, is—based on the Committee's Plea to the Jurisdiction asserting that the TPIA cannot be used to obtain the records after the Committee is dissolved—tantamount to permitting the destruction of these state records. *See* Tex. Gov't Code § 441.187(b):

A state record may not be destroyed if any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the record is initiated before the expiration of a retention period for the record set by the commission or in the approved records retention schedule of the agency until the completion of the action and the resolution of all issues that arise from the action, or until the expiration of the retention period, whichever is later.

### **CONDITIONS PRECEDENT**

10. All conditions precedent to plaintiffs' claim for relief have been performed or have occurred.

### **ATTORNEY FEES**

11. Plaintiffs have retained the under-signed attorney to bring this action. Plaintiffs ask the court to award costs and reasonable and necessary attorney fees pursuant to TPIA section 552.323.

### **PRAYER**

For these reasons, Plaintiffs ask the Court to set this matter for an expedited hearing on mandamus pursuant to Tex. Gov't Code section 552.321, and to order the TPIA Defendants and

their personnel to supply all the information Requestors sought, or in the alternative to order the Committee to request a ruling pursuant to TPIA section 552.301 on any records the Committee attempts to withhold from disclosure.. In addition, Plaintiffs ask the Court to declare void the Secretary of State's Proclamation purporting to dissolve the Committee while the TPIA requests were pending and after this lawsuit seeking the Committee records had been filed. Plaintiffs ask the Court to award Plaintiffs costs and reasonable and necessary attorney fees, and to grant Plaintiffs all other relief to which they may be entitled.

Respectfully submitted,



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Bill Aleshire  
Bar No. 24031810  
AleshireLAW, P.C.  
700 Lavaca, Suite 1400  
Austin, Texas 78701  
Telephone: (512) 320-9155  
Cell: (512) 750-5854  
Facsimile: (512) 320-9156  
[Bill@AleshireLaw.com](mailto:Bill@AleshireLaw.com)  
**ATTORNEY FOR PLAINTIFFS**

**Attached: Exhibits P-1 – P-7**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served via e-file on November 21, 2019 on the following:

COUNSEL FOR DEFENDANT 2019 TEXAS INAUGURAL COMMITTEE

CYNTHIA A. MORALES  
Assistant Attorney General  
State Bar No. 14417420  
Financial Litigation and Charitable Trusts Division  
Office of the Attorney General  
P.O. Box 1254\$, Mail Code 017  
Austin, Texas 78711-2548  
Telephone: (512) 475-4470  
Facsimile: (512) 477-2348  
Email: [cynthia.morales@oag.texas.gov](mailto:cynthia.morales@oag.texas.gov)



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Bill Aleshire



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 22, 1998

Mr. Dale Laine, III  
Executive Director  
Inaugural Committee  
504 Lavaca, Suite #1105  
Austin, Texas 78701

Dear Mr. Laine,

You ask whether the Inaugural Committee is a state agency. Having considered its creation, its function, and its authority, we conclude that it is. Because of the exigent circumstances, we are responding by this informal letter rather than a formal opinion of this office.

The Inaugural Committee's organization powers, and duties, including its duties in the respect to record-keeping and contracting, are set forth in subchapter A of Chapter 401 of the Government Code. Briefly, the committee is appointed by the governor-elect and lieutenant governor-elect. Gov't Code § 401.001(b). Its principal duty is to "make arrangements necessary for conducting ceremonies and events to observe the inauguration of the governor and lieutenant governor" to which end it may "employ staff or engage the services of consultants . . . ." *Id.* 401.002(e). It may expend monies from the inaugural fund, a special fund in the state treasury, section 401.003, for "public purposes reasonably related to conducting inaugural ceremonies and related events . . . ." *Id.* § 401.005(a)(7). Insofar as it follows the competitive bidding requirements of Article XVI, section 21 of the Texas Constitution, it must award the contract to the lowest bidder who is most responsible and best able to fulfill the contract terms. *Id.* 401.006. It must keep records of its expenditures. *Id.* 401.007. It must file a final report with the secretary of state not later than June 30 of the inaugural year. When it has done so, and the secretary of state determines that such report complies with the terms of the statute, the commission is dissolved the day after the secretary issues a proclamation to that effect. *Id.* 401.008. The statute also provides for the payment of claims filed after the commission's dissolution. *Id.* 401.009.

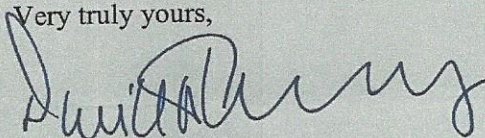
As the foregoing demonstrates, the commission is a creature of statute which is instituted for a public purpose. Its members are appointed by political authority and bound in their proceedings



Mr. Dale Laine, III - Page 2

by statutory requirements. Its powers of contract and expenditure are also created by law. We conclude, based upon these attributes that, though the committee's legal existence is intermittent, its powers relatively small, and its object highly limited, it is nevertheless an agency of the State of Texas.

Very truly yours,



David A. Talbot, Jr.  
Deputy Attorney General for Litigation

DAT/JET/sbm

cc: Mr. Olan A. Kelly, III  
Austin Convention Center  
FAX: 404-4416



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Sept. 4, 2019

J. Bruce Bugg, Jr.  
Chairman, Texas Inaugural Committee  
410 Elizabeth Road  
Terrell Hills, Texas 78209

Dear Mr. Bugg,

This is a request for public records pertaining to contributions received, expenditures made and other records associated with the Texas Inaugural Committee for the 2019 inauguration of the governor and lieutenant governor.

We previously sent this request to you and the committee via the post office box listed in the inaugural packet and via the email addresses associated with the committee and/or its members. In your case, TxDOT spokesman Bob Kaufman asked that we route the request to you via his email, which we did.

As such, we ask that you **preserve any and all responsive records**, whether or not you plan to claim exemptions, as the law requires when TPIA requests are made of governmental bodies.

The law governing the 2019 inaugural committee — and making its records public information — can be found in section 401 of the Texas Government Code. Under section 401.011 (g) this committee is considered to be "a governmental body for purposes of Chapters 551 and 552," i.e., the Texas Open Meetings and Public Information Acts.

Also, allow me to call attention to court precedent, including No. 03-13-00604-CV from the 3rd Court of Appeals in Austin, establishing that **private emails used for governmental business are public records**. That would include business of any kind conducted by the committee and/or its representatives that pertains to the committee's work.

Accordingly, I ask that you provide to us within the timeframes established under the Texas Public Information Act, the following:

1. Any and all receipts of expenditures and vouchers, including the name and address to whom the expenditure was paid, the amount of the expenditure, the date of the expenditure and the purpose of the expenditure, pursuant to Sec. 401.007 of the Texas Government Code.



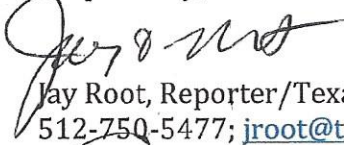
2. Any and all bids, contracts for goods and/or services and bidding and contracting documents, including but not limited to bid solicitations, RFPs, RFQs, etc. related in any way to the 2019 Texas inaugural activities.

3. Any and all records of contributions, whether by cash, check or in-kind, donated to the committee, including the name and mailing address of the contributor, the amount of the contribution, the date of the contribution and any indication about what the donation was for, pursuant to Sec. 401.004 of the Texas Government Code.

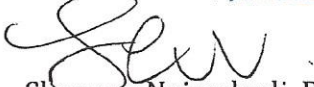
4. Any and all emails, text messages, letters and electronic communications of any kind — including but not limited to, Facebook messages, LinkedIn messages, Twitter messages, to and/or from (or among) the committee and/or any of its representatives, that in any way discuss donations, expenditures, contracts, bids or any other business associated with the 2019 inaugural committee. Please provide any communications that pertain to the business of the committee, a governmental entity for purposes of state transparency laws, without regard to whether they were sent via privately or publicly maintained messaging systems.

Please don't hesitate to contact us if you have any questions about the scope or nature of this request.

Respectfully,



Jay Root, Reporter/Texas Tribune  
512-750-5477; [jroot@texastribune.org](mailto:jroot@texastribune.org)



Shannon Najmabadi, Reporter/Texas Tribune  
512-716-8627; [snajmabadi@texastribune.org](mailto:snajmabadi@texastribune.org)

Jay Root & Shannon Najmabadi  
Texas Tribune  
919 Congress Ave., 6<sup>th</sup> Floor  
Austin, TX 78701





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Sept. 5, 2019

Mr. Ray L. Hunt  
Co-Chair, Texas Inaugural Committee  
1900 N. Akard Street  
Dallas, Texas 75201

Dear Mr. Hunt,

This is a request for public records pertaining to contributions received, expenditures made and other records associated with the Texas Inaugural Committee for the 2019 inauguration of the governor and lieutenant governor.

We previously sent this request to you and the committee via the post office box listed in the inaugural packet and via the email addresses associated with the committee and/or its members. In addition, we have sent this to Texas Inaugural Committee Chairman J. Bruce Bugg.

Please be advised that we are also forwarding this request to the offices of Texas Gov. Greg Abbott and Lt. Gov. Dan Patrick.

As such, we ask that you preserve any and all responsive records, whether or not you plan to claim exemptions, as the law requires when TPIA requests are made of governmental bodies.

The law governing the 2019 inaugural committee — and making its records public information — can be found in section 401 of the Texas Government Code. Under section 401.011 [g] this committee is considered to be "a governmental body for purposes of Chapters 551 and 552," i.e, the Texas Open Meetings and Public Information Acts.

Also, allow us to call attention to court precedent, including No. 03-13-00604—CV from the 3rd Court of Appeals in Austin, establishing that **private emails used for governmental business are public records**. That would include business of any kind conducted by the committee and/or its representatives that pertains to the committee's work.

Accordingly, we ask that you provide to us within the timeframes established under the Texas Public Information Act, the following:



1. Any and all receipts of expenditures and vouchers, including the name and address to whom the expenditure was paid, the amount of the expenditure, the date of the expenditure and the purpose of the expenditure, pursuant to Sec. 401.007 of the Texas Government Code.

2. Any and all bids, contracts for goods and/or services and bidding and contracting documents, including but not limited to bid solicitations, RFPS, RFQs, etc. related in any way to the 2019 Texas inaugural activities.

3. Any and all records of contributions, whether by cash, check or in-kind, donated to the committee, including the name and mailing address of the contributor, the amount of the contribution, the date of the contribution and any indication about what the donation was for, pursuant to Sec. 401.004 of the Texas Government Code.

4. Any and all emails, text messages, letters and electronic communications of any kind — including but not limited to, Facebook messages, LinkedIn messages, Twitter messages, to and/or from (or among) the committee and/or any of its representatives, that in any way discuss donations, expenditures, contracts, bids or any other business associated with the 2019 inaugural committee.

Please provide any communications that pertain to the business of the committee, a governmental entity for purposes of state transparency laws, without regard to whether they were sent via privately or publicly maintained messaging systems.

Please don't hesitate to contact us if you have any questions about the scope or nature of this request.

Respectfully,



Jay D. Root

Reporter/Texas Tribune

512-750-5477; jroot@texastribune.org



Shannon Najmabadi

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858-337-7412; snajmabadi@texastribune.org



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Sept. 5, 2019

Mrs. Mindy Hildebrand  
Co-Chair, Texas Inaugural Committee  
3646 Ella Lee Ln.  
Houston, Texas 77027

Dear Mrs. Hildebrand,

This is a request for public records pertaining to contributions received, expenditures made and other records associated with the Texas Inaugural Committee for the 2019 inauguration of the governor and lieutenant governor.

We previously sent this request to you and the committee via the post office box listed in the inaugural packet and via the email addresses associated with the committee and/or its members. In addition, we have sent this to Texas Inaugural Committee Chairman J. Bruce Bugg.

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The law governing the 2019 inaugural committee — and making its records public information — can be found in section 401 of the Texas Government Code. Under section 401.011 [g] this committee is considered to be "a governmental body for purposes of Chapters 551 and 552," i.e, the Texas Open Meetings and Public Information Acts.

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1. Any and all receipts of expenditures and vouchers, including the name and address to whom the expenditure was paid, the amount of the expenditure, the date of the expenditure and the purpose of the expenditure, pursuant to Sec. 401.007 of the Texas Government Code.

2. Any and all bids, contracts for goods and/or services and bidding and contracting documents, including but not limited to bid solicitations, RFPS, RFQs, etc. related in any way to the 2019 Texas inaugural activities.

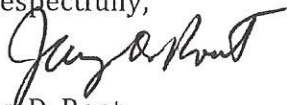
3. Any and all records of contributions, whether by cash, check or in-kind, donated to the committee, including the name and mailing address of the contributor, the amount of the contribution, the date of the contribution and any indication about what the donation was for, pursuant to Sec. 401.004 of the Texas Government Code.

4. Any and all emails, text messages, letters and electronic communications of any kind — including but not limited to, Facebook messages, LinkedIn messages, Twitter messages, to and/or from (or among) the committee and/or any of its representatives, that in any way discuss donations, expenditures, contracts, bids or any other business associated with the 2019 inaugural committee.

Please provide any communications that pertain to the business of the committee, a governmental entity for purposes of state transparency laws, without regard to whether they were sent via privately or publicly maintained messaging systems.

Please don't hesitate to contact us if you have any questions about the scope or nature of this request.

Respectfully,



Jay D. Root  
Reporter/Texas Tribune  
512-750-5477; jroot@texastribune.org



Shannon Najmabadi  
Reporter/Texas Tribune  
858-337-7412; snajmabadi@texastribune.org

## Bill Aleshire

---

**From:** Bill Aleshire <bill@aleshirelaw.com>  
**Sent:** Monday, September 16, 2019 12:34 PM  
**To:** 'Jay Root'; 'Shannon Najmabadi'; 'generalcounsel@sos.texas.gov'; Stephen Chang; Nancy Prosser; 'Murl.Miller@cpa.texas.gov'  
**Subject:** Records of the 2019 Inaugural Committee  
**Importance:** High

Dear Mr. Bitter, Ms. Prosser, and Mr. Miller:

I represent Ms. Najmabadi and Mr. Root who requested records of the 2019 Inaugural Committee (the records of receipt/expenditure of both public funds as well as private funds as well as other public information). The requestors have requested the records directly from the Committee Co-Chairs, from the Secretary of State, from the State Comptroller, and from the Texas State Library.

As noted below, we have been advised that the Committee has not yet been dissolved, and we maintain that it should not be dissolved without disclosure of the requested records. The requested records are both “public information” under the Texas Public Information Act as well as “state records” under Tex. Gov’t Code ch. 441 that must be preserved. Today, we receive an email from the former executive director of the 2019 Inaugural Committee claiming “they” had not responsive records—which seems legally impossible.

Even if the Committee is dissolved or has transferred its records elsewhere, those records must be turned over to the Texas State Comptroller:

Tex. Gov’t Code Sec. 441.194. RECORDS OF ABOLISHED STATE AGENCIES. (a) Unless otherwise provided by law, the comptroller shall take custody of the records of a state agency that is abolished by the legislature and whose duties and responsibilities are not transferred to another state agency.

We are very concerned that the 2019 Inaugural Committee fully comply with these statutes and disclose the requested records ... one way or the other.

### *Bill Aleshire*

AleshireLAW PC  
700 Lavaca, Suite 1400  
Austin, Texas 78701  
512 320-9155 phone  
512 750-5854 cell  
512 320-9156 fax  
Bill@AleshireLaw.com

**From:** Jay Root <jroot@texastribune.org>  
**Sent:** Tuesday, September 10, 2019 8:38 AM  
**To:** Bill Aleshire <bill@aleshirelaw.com>; Shannon Najmabadi <snajmabadi@texastribune.org>; generalcounsel@sos.texas.gov  
**Subject:** Fwd: Question about the inaugural committee

Hello Mr. Bitter,



I wanted to make sure you saw this email from our lawyer regarding the request not to dissolve the Texas Inaugural Committee since we have a public information request pending.

Thanks,

Jay Root

----- Forwarded message -----

From: **Bill Aleshire** <[bill@aleshirelaw.com](mailto:bill@aleshirelaw.com)>  
Date: Mon, Sep 9, 2019 at 4:29 PM  
Subject: RE: Question about the inaugural committee  
To: Stephen Chang <[SChang@sos.texas.gov](mailto:SChang@sos.texas.gov)>  
CC: Jay Root <[jroot@texastribune.org](mailto:jroot@texastribune.org)>, Shannon Najmabadi <[snajmabadi@texastribune.org](mailto:snajmabadi@texastribune.org)>

Mr. Chang,

I represent Jay Root and Shannon Nahmabadi in their public information requests to the 2019 Texas Inaugural Committee. Those public information requests have already been received by the officials of the Committee, but they have not yet responded. **This is a request that the Secretary of State not dissolve the Committee until the public information requests are resolved.** We would hope the Committee officials will fully respond to the requests made pursuant to the Texas Public Information Act—to which the Committee is specifically required by Chapter 401 to comply—and do so “promptly.”

*Bill Aleshire*

AleshireLAW PC  
[700 Lavaca, Suite 1400](http://www.aleshirelaw.com)  
[Austin, Texas 78701](http://www.aleshirelaw.com)  
512 320-9155 phone  
512 750-5854 cell  
512 320-9156 fax  
[Bill@AleshireLaw.com](mailto:Bill@AleshireLaw.com)

----- Forwarded message -----

From: **Stephen Chang** <[SChang@sos.texas.gov](mailto:SChang@sos.texas.gov)>  
Date: Mon, Sep 9, 2019 at 4:10 PM  
Subject: RE: Question about the inaugural committee  
To: Shannon Najmabadi <[snajmabadi@texastribune.org](mailto:snajmabadi@texastribune.org)>  
Cc: Jay Root <[jroot@texastribune.org](mailto:jroot@texastribune.org)>

Shannon and Jay,

Thanks for getting in touch with your question.

In regards to Chapter 401 of the Texas Government Code, after reviewing the situation on our end, the Office of the Secretary of State has not yet issued a proclamation dissolving the 2019 Texas Inaugural Committee.

On June 27<sup>th</sup>, 2019, SOS received the Inaugural Committee's final report.

On August 14<sup>th</sup>, 2019, all excess funds received from the Inaugural Committee were transferred to the Comptroller per the direction of Section 401.008 of the Texas Government Code.

The Office of Secretary of State will soon be issuing a proclamation to dissolve the 2019 Texas Inaugural Committee.

- SC

--

**Stephen Chang**

*Director of Communications*

Office of the Secretary of State

Capitol Building, Room 1E.8

Direct: (512) 463-6116

Cell: (512) 538-5293

[SChang@sos.texas.gov](mailto:SChang@sos.texas.gov)



**From:** Shannon Najmabadi <[snajmabadi@texastribune.org](mailto:snajmabadi@texastribune.org)>

**Sent:** Friday, September 6, 2019 4:15 PM

**To:** Stephen Chang <[SChang@sos.texas.gov](mailto:SChang@sos.texas.gov)>

**Cc:** Jay Root <[jroot@texastribune.org](mailto:jroot@texastribune.org)>

**Subject:** Question about the inaugural committee

**CAUTION:** This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to [Informationsecurity@sos.texas.gov](mailto:Informationsecurity@sos.texas.gov).

Hi Stephen --

Nice to speak with you on the phone just now. Like I mentioned, we're curious if the SOS has taken any action to "dissolve" the 2019 Texas Inaugural Committee.

Chapter 401 of the government code says that: "When the committee has complied with Subsections (a) and (b), the secretary of state shall issue a proclamation to that effect. The committee is dissolved on the day after the date the proclamation is issued."

We didn't spot any proclamation in the Register but could have missed it.

Thanks -- and hope you have a good weekend,

Shannon



**Shannon Najmabadi**  
Reporter

[919 Congress Ave.](#), Sixth Floor  
Austin, TX 78701  
[www.texastribune.org](http://www.texastribune.org)

**M** (858) 337-7412 **D** (512) 716-8627 **F** (512) 716-8601

@shannonnajma

--

**Jay Root**  
Reporter/Texas Tribune  
Ph: 512-716-8643  
Twitter: @byjayroot





Shannon Najmabadi <snajmabadi@texastribune.org>

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## Fwd: 2019 Texas Inaugural Committee

---

Shannon Najmabadi <snajmabadi@texastribune.org>  
To: Jay Root <jroot@texastribune.org>, Bill aleshire <bill@aleshirelaw.com>

Sat, Nov 16, 2019 at 12:25 PM

----- Forwarded message -----

From: Jay Root <jroot@texastribune.org>  
Date: Mon, Sep 16, 2019 at 11:43 AM  
Subject: Re: 2019 Texas Inaugural Committee  
To: Kim Snyder <kimsnyder1@hotmail.com>

OK, good to know.

Not sure if you had a hand in dealing with the final report of the committee, but the committee obviously had to produce stuff like bank statements, receipts and other expenditure records for the accounting firm that verified it. That's among the information we are looking for -- you know like expenditure recipients, dates, amounts, purpose. Where did that stuff go?

Thanks!

Jay

On Mon, Sep 16, 2019 at 11:31 AM Kim Snyder <kimsnyder1@hotmail.com> wrote:

I'm doing well. Hope you are, too! I am the former executive director of the inaugural committee.

Thanks!

On Sep 16, 2019, at 11:00 AM, Jay Root <jroot@texastribune.org> wrote:

Hi Kim —

Hope you're doing well and thanks for reaching out.

I didn't realize you represented the inaugural committee. What is your role there?

Thanks,

Jay Root



On Mon, Sep 16, 2019 at 10:57 AM Kim Snyder <kimsnyder1@hotmail.com> wrote:

Hi Jay,

I understand you've contacted the three board members of the 2019 Texas Inaugural Committee requesting information. We have conducted a thorough search for records responsive to your request. The 2019 Texas Inaugural Committee has no responsive records.

Thanks,

Kim

--

**Jay Root**

Reporter/Texas Tribune

Ph: 512-716-8643

Twitter: @byjayroot



**The State of Texas  
Office of the Secretary of State**

**PROCLAMATION**

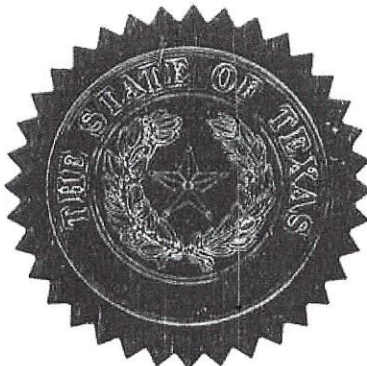
WHEREAS, the 2019 Inaugural Committee was duly appointed by the Governor and Lieutenant Governor in accordance with Section 401.001 of the Texas Government Code; and

WHEREAS, the 2019 Inaugural Committee has completed its work and has satisfied its financial obligations pursuant to Section 401.008 of the Texas Government Code; and


WHEREAS, the 2019 Inaugural Committee filed on June 27, 2019 with the Office of the Secretary of State a final report verified by a certified public accountant showing the total amount of contributions received by the Committee and the total amount of expenditures made by the Committee from non-appropriated funds; and

WHEREAS, on August 14, 2019, the Secretary of State, on behalf of the 2019 Inaugural Committee, transmitted to the Comptroller of Public Accounts all non-appropriated unexpended funds it possessed;

NOW, THEREFORE, I, Ruth R. Hughs, Secretary of State of Texas, under the authority invested in me by Section 401.008(c) of the Texas Government Code, DO HEREBY DECLARE that the 2019 Inaugural Committee has complied with Sections 401.008(a) and 401.008(b) of the Texas Government Code, and the 2019 Inaugural Committee is dissolved on the day after this proclamation is issued.



IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in the City of Austin, this 18th day of September, 2019.

  
\_\_\_\_\_  
Ruth R. Hughs  
Secretary of State





Shannon Najmabadi <snajmabadi@texastribune.org>

**TPIA - Inaugural**

6 messages

**Shannon Najmabadi** <snajmabadi@texastribune.org>  
To: Public Records <publicrecords@gov.texas.gov>  
Cc: Jay Root <jroot@texastribune.org>

Wed, Oct 9, 2019 at 11:11 AM

Hello,

Under all laws that guarantee public access to information, I respectfully request the following:

All communications and records — including but not limited to texts, emails, messages on third-party apps and internal memorandums — that in any way mentions the 2019 inaugural, inauguration, inaugural ball, fundraising for the aforementioned events, AND/OR mentions any of the following key words: "inaugural" "inauguration" "Strait" "Aaron Watson" "Hildebrand" "Bugg" "Ray Hunt."

The time frame for this request is Nov. 1, 2019 through the present.

I agree in advance to all redactions required as a matter of law.

Best,  
Shannon Najmabadi and Jay Root  
858-337-7412 (Shannon)  
512-750-5477 (Jay)



**Shannon Najmabadi**  
Reporter

919 Congress Ave., Sixth Floor  
Austin, TX 78701  
www.texastribune.org

**M** (858) 337-7412 **D** (512) 716-8627 **F** (512) 716-8601  
@shannonnajma

**Public Records** <publicrecords@gov.texas.gov>  
To: Shannon Najmabadi <snajmabadi@texastribune.org>

Wed, Oct 9, 2019 at 11:34 AM

Ms. Najmabadi and Mr. Root,

This email seeks to narrow or clarify your request to avoid the production of and potential charges for responsive information that you are not interested in receiving. Additionally, clarifying or narrowing the scope of your public information request can assist the OOG in providing responsive information to you more quickly and potentially avoid the need for a decision from the Office of the Attorney General.

Your original request seeks, "[a]ll communications and records . . . that in any way mentions the 2019 inaugural, inauguration, inaugural ball, fundraising for the aforementioned events, AND/OR mentions any of the following key words: "inaugural" "inauguration" "Strait" "Aaron Watson" "Hildebrand" "Bugg" "Ray Hunt." The time frame for this request is Nov. 1, 2019 through the present." Please respond to the following request for clarification or narrowing:



· **Please clarify:**

Your request seeks documents from “Nov. 1, 201~~9~~<sup>8</sup> through present.” Did you intend to request documents from Nov. 1, 201~~8~~<sup>9</sup>, through October 9, 2019, instead?

· **Please clarify:**

Do you seek records that, “in any way mention[] the 2019 inaugural, inauguration, inaugural ball, fundraising for the aforementioned events” that also include the keywords “inaugural” “inauguration” “Strait” “Aaron Watson” “Hildebrand” “Bugg” “Ray Hunt”?

OR

Do you seek records that “in any way mention[] the 2019 inaugural, inauguration, inaugural ball, fundraising for the aforementioned events” AND any records that include the keywords “inaugural” “inauguration” “Strait” “Aaron Watson” “Hildebrand” “Bugg” “Ray Hunt”?

For example, if we received constituent communications from individuals who discussed the “Bering Strait land bridge” or the “inaugural Concert of Da Capo,” such communications would not be responsive to the former understanding, but would be responsive to the latter.

Your narrowing or clarification of this request does not preclude you from making future requests for additional information. After we receive your response, we can begin a search of our records for the information you are seeking. If the OOG does not receive a response from you by the 61st day after the date this email is sent, your request will be considered withdrawn. See Gov’t Code § 552.222(d), (g). The withdrawal of your request does not preclude you from requesting the same or other information in the future. You can reach us at [publicrecords@gov.texas.gov](mailto:publicrecords@gov.texas.gov) or 512-463-1750 with any questions.

Best regards,

Joseph Behnke

Public Information Coordinator

Assistant General Counsel

Office of the Governor

**From:** Shannon Najmabadi <[snajmabadi@texastribune.org](mailto:snajmabadi@texastribune.org)>

**Sent:** Wednesday, October 9, 2019 11:11 AM

**To:** Public Records <[publicrecords@gov.texas.gov](mailto:publicrecords@gov.texas.gov)>

**Cc:** Jay Root <[jroot@texastribune.org](mailto:jroot@texastribune.org)>

**Subject:** TPIA - Inaugural

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

[Quoted text hidden]

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Shannon Najmabadi <[snajmabadi@texastribune.org](mailto:snajmabadi@texastribune.org)>

Wed, Oct 9, 2019 at 11:43 AM

10/10/2019

The Texas Tribune Mail - TPIA - Inaugural

To: Public Records <publicrecords@gov.texas.gov>  
Cc: Jay Root <jroot@texastribune.org>

Thanks for your email, Joseph. Yes, I meant 2018 -- my mistake.

And for the communications, could we please alter that to request: All communications and records — including but not limited to texts, emails, messages on third-party apps and internal memorandums — that in any way mention the 2019 inaugural, inauguration, inaugural ball, AND/OR fundraising for the aforementioned events.

Thank you again,  
Shannon

 **THE TEXAS TRIBUNE**

**Shannon Najmabadi**  
Reporter

919 Congress Ave., Sixth Floor  
Austin, TX 78701  
www.texastribune.org

**M** (858) 337-7412 **D** (512) 716-8627 **F** (512) 716-8601  
@shannonnajma

[Quoted text hidden]

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**Public Records** <publicrecords@gov.texas.gov>  
To: Shannon Najmabadi <snajmabadi@texastribune.org>, Public Records <publicrecords@gov.texas.gov>  
Cc: Jay Root <jroot@texastribune.org>

Wed, Oct 9, 2019 at 11:56 AM

Thank you for the quick reply.

From your response, I understand your request to relate to only Governor Abbott's 2019 inauguration, so discussions of other inaugurations or inaugural events that happened in 2019 (such as the 2019 inaugural concert mentioned in my prior correspondence) are not responsive to the request.

Accordingly, we will move forward on your request with the following understanding:

*Time period: 11/01/2018 – 10/09-2019.*

*All communications and records — including but not limited to texts, emails, messages on third-party apps and internal memorandums — pertaining to Governor Abbott's 2019 inauguration that in any way mention the 2019 inaugural, inauguration, inaugural ball, AND/OR fundraising for the aforementioned events.*

**If my understanding is incorrect, please advise. Otherwise, nothing further is needed and we will begin processing your request.**

Best regards,

10/10/2019

The Texas Tribune Mail - TPIA - Inaugural

Joseph Behnke  
Public Information Coordinator  
Assistant General Counsel  
Office of the Governor

**From:** Shannon Najmabadi <[snajmabadi@texastribune.org](mailto:snajmabadi@texastribune.org)>  
**Sent:** Wednesday, October 9, 2019 11:43 AM  
**To:** Public Records <[publicrecords@gov.texas.gov](mailto:publicrecords@gov.texas.gov)>  
**Cc:** Jay Root <[jroot@texastribune.org](mailto:jroot@texastribune.org)>  
**Subject:** Re: TPIA - Inaugural

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Thanks for your email, Joseph. Yes, I meant 2018 -- my mistake.

And for the communications, could we please alter that to request: All communications and records — including but not limited to texts, emails, messages on third-party apps and internal memorandums — that in any way mention the 2019 inaugural, inauguration, inaugural ball, AND/OR fundraising for the aforementioned events.

Thank you again,  
Shannon

[Quoted text hidden]

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**Shannon Najmabadi** <snajmabadi@texastribune.org>  
To: Public Records <publicrecords@gov.texas.gov>  
Cc: Jay Root <jroot@texastribune.org>

Wed, Oct 9, 2019 at 12:15 PM

That's correct, sir — We only seek records related to the 2019 inaugural festivities (oath of office ceremony, inaugural ball, etc.) for Governor Abbott and Lt Governor Patrick. Thank you!

 **THE TEXAS TRIBUNE**

**Shannon Najmabadi**  
Reporter

919 Congress Ave., Sixth Floor  
Austin, TX 78701  
www.texastribune.org

**M** (858) 337-7412 **D** (512) 716-8627 **F** (512) 716-8601  
@shannonnajma

[Quoted text hidden]

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**Public Records** <publicrecords@gov.texas.gov>  
To: Shannon Najmabadi <snajmabadi@texastribune.org>  
Cc: "jroot@texastribune.org" <jroot@texastribune.org>

Wed, Oct 9, 2019 at 12:18 PM

Thank you. I will follow up if anything further is needed.

Best regards,

Joseph Behnke  
Public Information Coordinator  
Assistant General Counsel  
Office of the Governor

**From:** Shannon Najmabadi <snajmabadi@texastribune.org>  
**Sent:** Wednesday, October 9, 2019 12:16 PM  
**To:** Public Records <publicrecords@gov.texas.gov>



10/10/2019

The Texas Tribune Mail - TPIA - Inaugural

**Cc:** Jay Root <jroot@texastribune.org>

**Subject:** Re: TPIA - Inaugural

**[EXTERNAL SENDER]** - Do not click on links or open attachments in unexpected messages.

That's correct, sir — We only seek records related to the 2019 inaugural festivities (oath of office ceremony, inaugural ball, etc.) for Governor Abbott and Lt Governor Patrick. Thank you!

[Redacted]

[Quoted text hidden]

[Quoted text hidden]

# ALESHIRELAW

A PROFESSIONAL CORPORATION

700 LAVACA STREET, SUITE 1400  
AUSTIN, TEXAS 78701

**Bill Aleshire**

Bill@AleshireLAW.com

512 320-9155 (call) 512 320-9156 (fax)

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September 5, 2019

**VIA FACSIMILE: 512 338-9883**

Atchley & Associates  
1005 La Posada Drive  
Austin, Texas 78752-3815

RE: In Anticipation of Litigation, Retention Notice for Documents, Electronic or Magnetic Data, and Tangible Things

Dear Atchley & Associates:

I represent Jay D. Root and Shannon Najmabadi who are reporters with the Texas Tribune who have served public information requests to your client, the 2019 Texas Inaugural Committee, for records of the Committee, including but not limited to, details of expenditures of the Committee. You performed a review of the Committee financial records and prepared, in your capacity as certified public accountants, entitled "Statement of Cash Receipts and Disbursements" "For the Period from November 26, 2018 through May 20, 2018" which was filed with the Texas Secretary of State on June 27, 2019.

Because my clients anticipate resistance to complying with the Texas Public Information Act requirements for disclosure of the Committee records they requested, we anticipate that litigation may ensue to obtain the responsive records. We have reason to believe you are in possession of relevant records. Therefore, Atchley & Associates must immediately suspend the normal retention and destruction policies for documents, electronic or magnetic data, and tangible things and must preserve and retain all documents, electronic or magnetic data, and tangible things relating to occurrences or transactions discussed in this letter. The failure to preserve and retain this information may constitute "spoliation of evidence" and subject you to legal claims for damages or monetary sanctions.

This letter is to inform you that my clients believe that you may possess documents, electronic or magnetic data, and tangible things relating to the 2019 Inauguration Committee financial records. As part of my client's ongoing investigation to locate and obtain copies of the requested records, you may be requested, before or during litigation, to produce responsive documents, electronic or magnetic data, and tangible things. Thus, you have an obligation to take



reasonable steps to ensure that all relevant documents, electronic or magnetic data, and tangible things are safeguarded and preserved until the resolution of this legal matter.

## **Definitions**

In this letter, the terms “document,” “electronic or magnetic data,” “occurrence or transaction,” and “tangible thing” mean the following:

**Document.** The term “document” means all written, typed, or printed matter and all magnetic, electronic, or other records or documentation of any kind or description in your actual possession, custody, or control, including those in the possession, custody, or control of any and all present or former directors, officers, employees, consultants, accountants, attorneys, or other agents, whether or not prepared by you, that constitute or contain matters relevant to the subject matter of the action. “Document” includes, but is not limited to, the following: letters, reports, charts, diagrams, correspondence, telegrams, memoranda, notes, records, minutes, contracts, agreements, records or notations of telephone or personal conversations or conferences, interoffice communications, e-mail, microfilm, bulletins, circulars, pamphlets, photographs, faxes, invoices, tape recordings, computer printouts, drafts, résumés, logs, worksheets, {continue listing examples as necessary}.

**Electronic or magnetic data.** The term “electronic or magnetic data” means electronic information that is stored in a medium from which it can be retrieved and examined. The term refers to the original (or identical duplicate when the original is not available) and any other copies of the data that may have attached comments, notes, marks, or highlighting of any kind. Electronic or magnetic data includes, but is not limited to, the following: computer programs; operating systems; computer activity logs; programming notes or instructions; e-mail receipts, messages, or transmissions; output resulting from the use of any software program, including word-processing documents, spreadsheets, database files, charts, graphs, and outlines; metadata; PIF and PDF files; batch files; deleted files; temporary files; Internet- or web-browser-generated information stored in textual, graphical, or audio format, including history files, caches, and cookies; {continue listing examples as necessary}; and any miscellaneous files or file fragments. Electronic or magnetic data includes any items stored on magnetic, optical, digital, or other electronic-storage media, such as hard drives, floppy disks, CD-ROMs, DVDs, tapes, smart cards, integrated-circuit cards (e.g., SIM cards), removable media (e.g., Zip drives, Jaz cartridges), microfiche, punched cards, {continue listing examples as necessary}. Electronic or magnetic data also includes the file, folder, tabs, containers, and labels attached to or associated with any physical storage device with each original or copy.

**Occurrence or transaction.** The term “occurrence or transaction” means your receipt of or review of Committee financial records.

**Tangible thing.** The term “tangible thing” means a physical object that is not a document or electronic or magnetic data.

## **Preservation & Retention Responsibilities**

To preserve and retain documents, electronic or magnetic data, and tangible things you must immediately suspend certain normal retention and destruction policies, including shredding,

recycling, etc., and all procedures relating to electronic or magnetic data to be suspended, such as disk defragmentation, electronic data shredding, server backup tape rotation, recycling or destruction of computer systems or storage devices, etc., or returning records to the Committee. In addition to suspending the policies relating to documents, electronic or magnetic data, and tangible things, {you/your client} must immediately do the following:

- 1 Take affirmative steps to prevent anyone with access to documents, electronic or magnetic data, and tangible things relating to the occurrence or transaction from hiding, modifying, or destroying them.
- 2 Preserve and retain the following documents: All Committee financial records.
- 3 Preserve and retain the following electronic or magnetic data: Copies of Committee financial records.
- 4 Preserve and retain the following tangible things: And thumb drive or other device containing Committee financial records.
- 5 Preserve and retain all documents relating to the occurrence or transaction that either are in the possession of or were created, sent, or received by the following: Any employee or officer of Atchley & Associates.
- 6 Preserve and retain all electronic or magnetic data relating to the occurrence or transaction that either is in the possession of or was created, sent, or received by the following: Any employee or officer of Atchley & Associates.
- 7 Preserve and retain all documents, electronic or magnetic data, and computer hardware or software necessary to access, view, and reconstruct electronic or magnetic data relating to the occurrence or transaction.
- 8 Preserve and retain all tangible things relating to the occurrence or transaction that either are in the possession of or were created, sent, or received by the following: Any employee or officer of Atchley & Associates.

Because you may also have to make relevant electronic or magnetic data available for litigation, you should consider protecting that electronic or magnetic data by making a mirror image of it. A "mirror image" is a bit-by-bit copy of electronic or magnetic data (e.g., on a hard drive or flash drive) that ensures the computer system is not altered during the imaging process. The mirror image includes active, hidden, and deleted files, deleted file fragments, directories, and any other data contained on the drive. To alleviate any burden on you, my client is prepared to hire a computer forensic expert to properly and noninvasively create mirror images of all media in your possession, custody, or control that may contain electronic or magnetic data related to the occurrence or transaction.

Please contact me if you have any questions about this letter. Thank you for your cooperation in this matter.

ALESHIRELAW, PC



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Bill Aleshire