

NO. 162230501010-3

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
V.	§	OF HARRIS COUNTY, TEXAS
	§	
WORDEN, EARL DAVID	§	228th JUDICIAL DISTRICT

**THIRD-PARTY DEER PARK POLICE DEPARTMENT'S MOTION TO QUASH
DEFENDANT EARL DAVID WORDEN'S SUBPOENA**

TO: THE HONORABLE JUDGE OF SAID COURT:

Pursuant to the Federal Rules of Criminal Procedure 17(c)(2) & Texas Code of Criminal Procedure 24A.002(c), the City of Deer Park Police Department and Kathy Cobb in her official capacity as Custodian of Records, Movants, object in part to the subpoena requesting production of the following:

Please furnish the following information in reference to Incident Number 17-05183 (unless otherwise indicated):

1. All inter-departmental email and other inter-departmental electronic communication regarding the Defendant from the Deer Park Police Department.
2. All email and electronic communication to and from Tim Hill and the Deer Park Police Department in reference to this case or the Defendant.
3. All police reports from the Houston Police Department relating to either the Defendant or Brandy Worden, and any reports mentioned by the Deer Park Police Report. Also, the Houston Police Department Report related to Hector Gonzalez which is also mentioned in the report.
4. All police reports from the La Porte Police Department which are currently in the possession of the Deer Park Police Department, including those mentioned in the Deer Park

Police Report.

5. All Deer Park Police reports which mention Earl David Worden in any manner.
6. All school records collected by Deer Park Police in relation to this case, including those of “Jessica.”
7. The email from Darryl Aldrich Deer Park mentioned on page 37 of the police report.
8. Any youtube.com videos in the possession of the Deer Park Police Department relevant to this case (which are mentioned in the offense report).
9. All recorded interviews, including forensic interviews, related to this case, including those involving Detective J.D. Reed of the Deer Park Police Department, Kelly Reed of the Deer Park Police Department, [REDACTED]
10. All recorded interviews between Deer Park Police and [REDACTED]
11. All pictures taken as part of this investigation.
12. The names, agencies, and identification for all officers involved in this investigation.
13. All documents, prior police reports, or other written records mentioned in the police report or relied upon by Deer Park Police Department in this case.
14. A business records affidavit.

All other items listed within the subpoena do not exist or are not within Movants’ possession and thus Movants’ have alerted Defendant of this fact (see Exhibit “A”).

I. Background

On or about April 24, 2019, Movants were purportedly served with a Subpoena (attached herein and incorporated by reference as Exhibit "B," and referred to in this Motion as the "Subpoena"), by EARL DAVID WORDEN, Defendant. The deadline set forth in the Subpoena to “send all information instantter” to Defendant’s attorney is June 4, 2019 at 9:00 a.m.

II. Specificity

Movants object to the lack of specificity in the subpoena and generally object to the subpoena in its entirety. Movants request that the Court quash the Subpoena directing Movants to send all information to Defendant's attorney, Jonathan Landers, for the reason that only a very small portion of the documents, as the requesting language of the subpoena is written, may loosely relate to the underlying criminal case at hand. Movants therefore believe the request to be overbroad. FED. R. CRIM. 17(c)(2) and TEX. CODE CRIM. 24A.002(c).

Emails and electronic communications, records (including school records), and reports requested by the Defendant are voluminous and—as requested—overbroad and irrelevant to the underlying case at hand, including requests for documents pertaining to and involving several individuals, including juveniles, in unrelated criminal charges and investigations for which they were the victim, the defendant, and/or a witness.

Additionally, items of the aforementioned overbroad and irrelevant requested information also relate to the investigation and inner workings of a law enforcement agency, Movant Police Department, which did not result in arrests, convictions, or deferred adjudication and that Movants have previously protected by ruling of the State of Texas Attorney General from release to Defendant in Open Records Requests. TEX. GOVT. CODE §552.108. Movants believe this subpoena to be an improper attempt to secure said documents now.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Movants requests that the Court quash the above-described subpoena and for such other and further relief that may be awarded at law or in equity.

Respectfully Submitted,
BOJORQUEZ LAW FIRM, PC

By: _____



Alessandra Gad
Special Counsel
Texas Bar No. 24088875
alessandra@texasmunicipallawyers.com
12325 Hymeadow Dr., Suite 2-100
Austin, Texas 78750
Tel. (512) 250-0411
Fax. (512) 250-0749

SPECIAL COUNSEL FOR THE CITY OF DEER
PARK POLICE DEPARTMENT, KATHY COBB,
MOVANTS

CERTIFICATE OF SERVICE

I certify that on June 3, 2019 a true and correct copy of Movants' Motion to Quash was served to Jonathan David Landers, Attorney for Defendant by e-file and CMRRR at 917 Franklin St., Suite 300, Houston, Texas 77002.



Alessandra Gad, Special Counsel to the City of Deer
Park Police Department, Kathy Cobb, Movants

12325 Hymeadow Drive
Suite 2-100
Austin, Texas 78750



Phone: (512) 250-0411
Fax: (512) 250-0749
TexasMunicipalLawyers.com

June 3, 2019

Jonathan David Landers
917 Franklin St., Suite 300
Houston, TX 77002

via certified mail: 7015 0640 0000 9887 4777
return receipt: 9590 9401 0082 5168 9932 11

Re: Earl David Worden
Entity: City of Deer Park Police Department; Kathy Cobb, Custodian of Records

Mr. Landers,

This firm serves as legal counsel to the Police Department of the City of Deer Park, Texas and its Custodian of Records, Kathy Cobb, (Collectively referred to herein as the "Department") and writes to you now to update you on the status of your subpoena for:

Please furnish the following information in reference to Incident Number 17-05183 (unless otherwise indicated)

1. All inter-departmental email and other inter-departmental electronic communication regarding the Defendant from the Deer Park Police Department.
2. All email and electronic communication to and from Tim Hill and the Deer Park Police Department in reference to this case or the Defendant.
3. All police reports from the Houston Police Department relating to either the Defendant or Brandy Worden, and any reports mentioned by the Deer Park Police Report. Also, the Houston Police Department Report related to Hector Gonzalez which is also mentioned in the report.
4. All police reports from the La Porte Police Department which are currently in the possession of the Deer Park Police Department, including those mentioned in the Deer Park Police Report.
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9. All recorded interviews, including forensic interviews, related to this case, including those involving Detective J.D. Reed of the Deer Park Police Department, Kelly Reed of the Deer Park Police Department, [REDACTED]
10. All recorded interviews between Deer Park Police and [REDACTED]

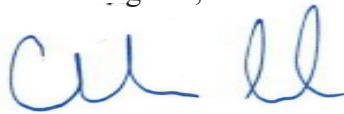
11. All pictures taken as part of this investigation.
12. The names, agencies, and identification for all officers involved in this investigation.
13. All dispatch and radio recordings related to this investigation.
14. All documents, prior police reports, or other written records mentioned in the police report or relied upon by Deer Park Police Department in this case.
15. All video and audio recorded by or for officers involved in this investigation, including recordings made using body cameras or other devices.
16. A business records affidavit.

After a diligent attempt to gather information pertaining to your request, the Department did not find any materials within its possession that are responsive to items 13 and 15 of your request: All dispatch and radio recordings related to (Incident Number 17-05183) and all video and audio recorded by or for officers involved in this investigation, including recordings made using body cameras or other devices.

A Motion regarding responsive elements of the subpoena has been filed in the appropriate Harris County District Court, and is also included as an attachment to this letter.

Should you have any questions or concerns, please feel free to contact me by telephone at (512) 250-0411 or by email at alessandra@texasmunicipallawyers.com.

Best Regards,



Alessandra Gad, Special Counsel
City of Deer Park Police Department;
Kathy Cobb, Custodian of Records

Attachment:

Motion to Quash Subpoena

CC:

Kathy Cobb, Custodian of Records
City of Deer Park Police Department

Harris County Sheriff's Office
Subpoena Enforcement Unit
201 Caroline B600
Houston, TX 77002



162230501010-3

Kathy Cobb
2911 Center Street
Deer Park, TX 77536
Harris County
Deer Park Police Department Employee-

CASE NO.:	162230501010-3
COURT:	IN THE 228th DISTRICT COURT
OFFENSE:	SEX ASSLT CHILD 14-17
Offense R. No:	DP1705183

COURT SUBPOENA

**A FINE AND IMPRISONMENT MAY BE IMPOSED
FOR FAILURE TO OBEY THIS NOTICE**

BRING THIS DOCUMENT WITH YOU TO COURT

In the case of the STATE OF TEXAS v. WORDEN, EARL DAVID


You are ordered to appear as witness in behalf of the State and Defendant in the above styled cause before Judge FRANK AGUILAR IN THE 228th DISTRICT COURT, located on the 11 floor, of the County Criminal Justice Center located at 201 CAROLINE, Houston, Texas 77002 and to remain there from day to day, term to term until discharged by the Court.


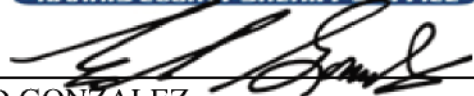
You are ordered to appear on: * Instanter @ 8:45 AM *****

Special Instructions:

Please send all information INSTANTER to attorney Jonathan Landers, 917 Franklin St., Suite 300, Houston, Texas 77002; Phone: (713) 685-5000; Fax: (713) 513-5505, OR if found to be in your County, to be and appear before the above designated court in and for Harris County, on 6/4/2019 at 9:00 a.m. to give evidence on behalf of the Defendant and the State of Texas in the above styled cause, and there to remain from day to day, and from term to term until discharged by the Court.

Issued this 23rd day of April A.D. 2019

By: 
Marilyn Burgess
District Clerk
Harris County, Texas



ED GONZALEZ
Sheriff
Harris County, Texas

Tracking No. 680009

**EXTREMELY IMPORTANT
NOTICE OF SUBPOENA RECEIPT:**

**LANDERS, JONATHAN DAVID
713-685-5000**

UPON RECEIPT, YOU MUST: 1. CALL LANDERS, JONATHAN DAVID @ 713-685-5000 AND 2. IF YOU RECEIVED THIS SUBPOENA ELECTRONICALLY, YOU MUST EMAIL YOUR NAME AND ACKNOWLEDGE THAT YOU RECEIVED THIS SUBPOENA TO: courtsubpoena@sheriff.hctx.net. IF YOU RECEIVED THIS SUBPOENA BY MISTAKE, EMAIL US WITH YOUR NAME AND EXPLAIN THE MISTAKE.

Exhibit B

No. 1622305

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
vs.	§	228th JUDICIAL DISTRICT
	§	
EARL DAVID WORDEN	§	HARRIS COUNTY, TEXAS

SUBPOENA DUCES TECUM

TO ANY PEACE OFFICER OF HARRIS COUNTY OR OTHER PERSON AUTHORIZED IN ACCORDANCE WITH ARTICLE 24.01 (b), TEXAS CODE OF CRIMINAL PROCEDURE:

Name of Person other than a peace officer to serve the subpoena: _____

YOU ARE HEREBY COMMANDED TO SUMMON: Kathy Cobb, Custodian of Records, Deer Park Police Department, 2911 Center Street, Deer Park, TX 77536. Please furnish the following information in reference to Incident Number 17-05183 (unless otherwise indicated):

1. All inter-departmental email and other inter-departmental electronic communication regarding the Defendant from the Deer Park Police Department.
2. All email and electronic communication to and from Tim Hill and the Deer Park Police Department in reference to this case or the Defendant.
3. All police reports from the Houston Police Department relating to either the Defendant or Brandy Worden, and any reports mentioned by the Deer Park Police Report. Also, the Houston Police Department Report related to Hector Gonzales which is also mentioned in the report.
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16. A business records affidavit.

Please send all information INSTANTER to attorney Jonathan Landers, 917 Franklin St., Suite 300, Houston, Texas 77002; Phone: (713) 685-5000; Fax: (713) 513-5505, OR if found to be in your County, to be and appear before the above designated court in and for Harris County, on 6/4/2019 at 9:00 a.m. to give evidence on behalf of the Defendant and the State of Texas in the above styled cause, and there to remain from day to day, and from term to term until discharged by the Court.

Disobedience of this subpoena may result in confinement in the Harris County Jail and fine.

WITNESS my official signature: _____

District Clerk
Harris County, Texas

By: _____

Deputy

Jonathan Landers / Texas Bar No. 24070101 / Tel: (713) 685-5000 / Fax: (713) 513-5505

SHERIFF'S RETURN

Came to hand on the _____ day of _____, 2018, and executed by summoning the within named witness(es) in person, in the County of Harris, at the dates as herein stated, viz:

DATE OF SERVICE	NAME	MILES	DIRECTION	FEES
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_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

and not executed to witness _____, the diligence used in finding said witness(es) being _____ and who after due search and diligent inquiry, cannot be found in Harris County, Texas.

By: _____