



City of Austin

Founded by Congress, Republic of Texas, 1839
Police Department, 715 East 8th Street, Austin, Texas 78701-3397 Telephone 512/974-5000

April 3, 2017

Carlos Leon

RE: ORR #3-06708 for 17-0081471

Dear Mr. Leon:

On March 31, 2017, we received your public information request dated March 31 for the incident report and dash cam video for the above-referenced incident involving you. In order to promote governmental efficiency and encourage the prompt release of information, as required by the Public Information Act, we have relied upon Open Records Letter No. 2016-10001 (2016) in responding to your request. We do so within five business days of your request.

The department has made a good faith determination the information you requested:

- deals with the detection, investigation, or prosecution of crime and the release of the records would interfere with the detection, investigation, or prosecution of an open or pending criminal matter.

This information is subject to Section 552.108(a)(1) of the Government Code. The Department has also determined you have not previously requested this information.¹ Therefore, pursuant to the previous determination granted by the Office of the Attorney General in Open Records Letter No. 2016-10001, the Department is releasing no information to you as there is no incident report, and is withholding the remaining responsive information subject to Section 552.108(a)(1) of the Government Code.

- Video recording(s)

If you have questions regarding the use of this previous determination, please call the Department at 512-974-5117, or for more information concerning your rights and the responsibilities of the Department, please visit the Office of the Attorney General's website at <https://www.texasattorneygeneral.gov/og/information-about-552.108a1-previous-determinations>, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839.

You may also review general information about the Public Information Act, including the types of information included in basic information, in the 2016 Public Information Handbook at http://www.texasattorneygeneral.gov/files/og/publicinfo_hb.pdf.

Sincerely,

Renee Moore
Administrative Supervisor
Central Records
Austin Police Department

10/1/18

Exhibit

Cut + Paste

That's true.

That's true.

That's true.

That's a lie.



City of Austin

Law Department

City Hall, 301 West 2nd Street, P.O. Box 1088
Austin, Texas 78767-8828
(512) 974-2268

Writer's Direct Line
(512) 974-2509

Writer's Fax Line
(512) 974-2312

April 25, 2017

VIA FIRST CLASS MAIL

Honorable Ken Paxton
Attorney General of Texas
Open Records Division
MC-014
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Request from Mr. Carlos Léon received April 7,
2017. (ORR#04-07290)

→ That's a lie,

Dear Attorney General Paxton,

This is a follow up to my letter of April 20, 2017. As noted in that letter, the Austin Police Department ("the department") received a request for information from Mr. Carlos Léon on March 31, 2017. On April 3, 2017, in accordance with OR2016-10001, which is a previous determination issued by your office to the department, the department sent Mr. Léon the required notice advising him of the department's intention to rely on OR2016-10001 to withhold some of the requested information pursuant to section 552.108 of the Government Code.¹ Mr. Léon then resubmitted his request on April 7, 2017. Thus, today is the twelfth business day since the receipt of this request. The department believes the requested information is excepted from disclosure under section 552.108 of the Government Code. A copy of the video at issue is enclosed.

Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Generally, a governmental body claiming section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the

¹ Mr. Léon was provided with the basic information on April 3, 2017. Since the alleged offense is a Class C Misdemeanor, and no offense report was created, this consisted of the CAD report related to this incident.

That's a lie.

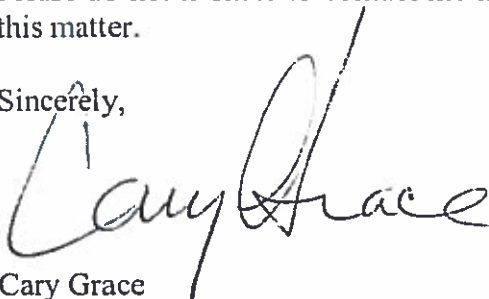
↓ given to me July 3, 2018,
along with the video

requested information would interfere with law enforcement. See Government Code §§ 552.108(a)(1), 552.108(b)(1), and 552.301(e)(1)(a); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

The information at issue pertains to criminal charge filed against Mr. Léon for Pedestrian in Roadway. This charge is currently pending in Municipal Court under Case No. 8560652. Thus, it is the department's position that the release of the requested information would interfere with the detection, investigation, or prosecution of crime, and the department seeks to withhold this information under section 552.108(a)(1).

Please do not hesitate to contact me at (512) 974-2509 if you have any questions concerning this matter.

Sincerely,

A handwritten signature in cursive script, reading "Cary Grace", followed by a long horizontal line extending to the right.

Cary Grace
Assistant City Attorney

aws/
Enclosures

cc: (without enclosures)
Mr. Carlos Léon²

² Mr. Léon has refused to provide any contact information. Instead, he has agreed to personally pick up correspondence and other information from the department's headquarters building on 8th Street downtown. Thus, the department will make available for pick up a copy of this correspondence at its headquarters location.



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 28, 2017

Ms. Cary Grace
Assistant City Attorney
Law Department
City of Austin
P.O. Box 1088
Austin, Texas 78767

OR2017-14425

Dear Ms. Grace:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 663838 (ORR# 04-07290).

The Austin Police Department (the "department") received a request for video recordings associated with a specified incident. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have considered the raised arguments and reviewed the submitted information.

Initially, we must address the procedural obligations of the department under the Act. Section 552.301 describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b), the governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(b). Further, pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a

signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e).

In this instance, you inform us the department received the requestor's initial request for the responsive information on March 31, 2017. You state you responded to the requestor within five business days in accordance with the previous determination this office granted the department in Open Records Letter No. 2016-10001 (2016). Open Records Letter No. 2016-10001 authorizes the department to withhold certain information from a requestor under section 552.108(a)(1) of the Government Code in specified circumstances without the necessity of first requesting a ruling from this office. We note, however, that previous determination states "the department may not rely on [Open Records Letter No. 2016-10001] in response to requests in which basic information is not responsive. For example, no basic information is at issue in a request for only a dashboard camera video recording or 9-1-1 call audio recording. Thus, the department may not rely upon this previous determination in response to those types of requests." Because the initial request sought only video recordings associated with a specified incident, no basic information was at issue in that request, and the department was not authorized to rely upon Open Records Letter No. 2016-10001 to withhold the information from the requestor under section 552.108 of the Government Code. Accordingly, the department was required to provide the information required by sections 552.301(b) and 552.301(e) within ten and fifteen business days of the initial request, respectively. Consequently, the department was required to provide the information required by section 552.301(b) by April 14, 2017, and the information required by section 552.301(e) by April 21, 2017. However, the envelope in which the department sent the information required by section 552.301(b) was postmarked April 20, 2017 and the envelope in which the department sent the information required by section 552.301(e) was postmarked April 25, 2017. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Accordingly, we conclude the department failed to comply with the procedural requirements mandated by section 552.301 of the Government Code in this case.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision Nos. 319 (1982), 586 (1991), 630 (1994). Although the department claims section 552.108 of the Government Code for the submitted information, we find you have not established a compelling reason to address this exception. Consequently, the department

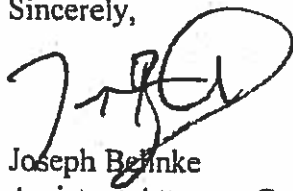
may not withhold any portion of the information at issue under section 552.108. Accordingly, as you raise no further exceptions to disclosure, the city must release the submitted information.¹

that's true.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Joseph Behnke
Assistant Attorney General
Open Records Division

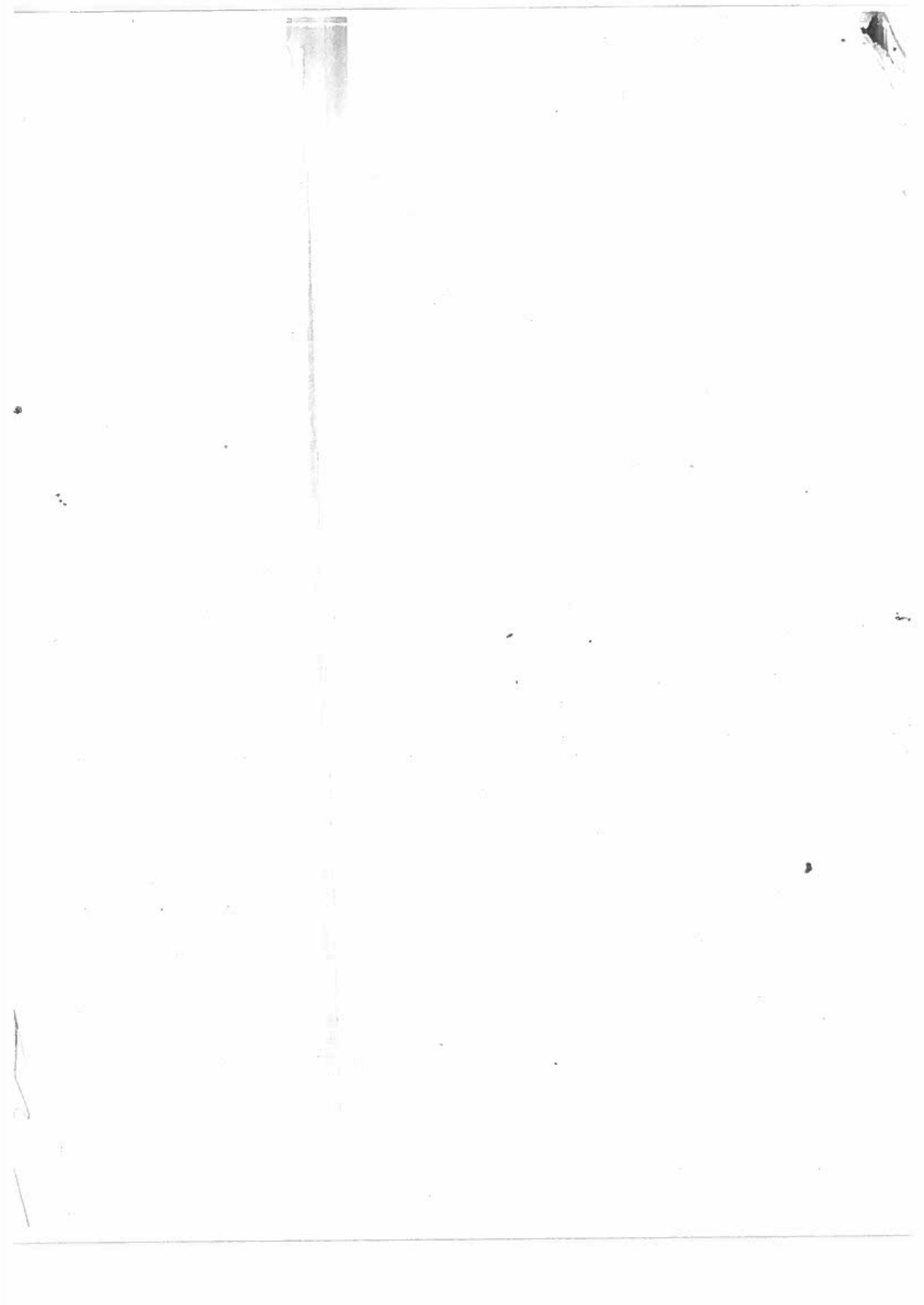
JB/som

Ref: ID# 663838

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the requestor has a right of access to some of the information being released in this instance. See Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).



Carlos León - 10/1/18

Memorandum



TO: All Republican Senators
FROM: Rachel Mitchell, Nominations Investigative Counsel
United States Senate Committee on the Judiciary
DATE: September 30, 2018
RE: Analysis of Dr. Christine Blasey Ford's Allegations

Please permit me this opportunity to present my independent assessment of Dr. Christine Blasey Ford's allegations against Judge Brett Kavanaugh. Before I do this, I want to emphasize two important points:

1. This memorandum contains my own independent assessment of Dr. Ford's allegations, based upon my independent review of the evidence and my nearly 25 years of experience as a career prosecutor of sex-related and other crimes in Arizona. This memorandum does not necessarily reflect the views of the Chairman, any committee member, or any other senator. No senator reviewed or approved this memorandum before its release, and I was not pressured in any way to write this memorandum or to write any words in this memorandum with which I do not fully agree. The words written in this memorandum are mine, and I fully stand by all of them. While I am a registered Republican, I am not a political or partisan person.
2. A Senate confirmation hearing is not a trial, especially not a prosecution. The Chairman made the following statement on September 25, 2018, after he hired me:

As I have said, I'm committed to providing a forum to both Dr. Ford and Judge Kavanaugh on Thursday that is safe, comfortable and dignified. The majority members have followed the bipartisan recommendation to hire as staff counsel for the committee an experienced career sex-crimes prosecutor to question the witnesses at Thursday's hearing. The goal is to de-politicize the process and get to the truth, instead of grandstanding and giving senators an opportunity to launch their presidential campaigns. I'm very appreciative that Rachel Mitchell has stepped forward to serve in this important and serious role. Ms. Mitchell has been recognized in the legal community for her experience and objectivity. I've worked to give Dr. Ford an opportunity to share serious allegations with committee members in any format she'd like after learning of the allegations. I promised Dr. Ford that I would do everything in my power to avoid a repeat of the 'circus' atmosphere in the hearing room that we saw the week of September 4. I've taken this additional step to have questions asked by expert staff counsel to establish the most fair and respectful treatment of the witnesses possible.

That is how I approached my job. There is no clear standard of proof for allegations made during the Senate's confirmation process. But the world in which I work is the legal world, not the political world. Thus, I can only provide my assessment of Dr. Ford's allegations in that legal context.

In the legal context, here is my bottom line: A “he said, she said” case is incredibly difficult to prove. But this case is even weaker than that. Dr. Ford identified other witnesses to the event, and those witnesses either refuted her allegations or failed to corroborate them. For the reasons discussed below, I do not think that a reasonable prosecutor would bring this case based on the evidence before the Committee. Nor do I believe that this evidence is sufficient to satisfy the preponderance-of-the-evidence standard.

Dr. Ford has not offered a consistent account of when the alleged assault happened.

- In a July 6 text to the *Washington Post*, she said it happened in the “mid 1980s.”
- In her July 30 letter to Senator Feinstein, she said it happened in the “early 80s.”
- Her August 7 statement to the polygrapher said that it happened one “high school summer in early 80’s,” but she crossed out the word “early” for reasons she did not explain.
- A September 16 *Washington Post* article reported that Dr. Ford said it happened in the “summer of 1982.”
- Similarly, the September 16 article reported that notes from an individual therapy session in 2013 show her describing the assault as occurring in her “late teens.” But she told the *Post* and the Committee that she was 15 when the assault allegedly occurred. She has not turned over her therapy records for the Committee to review.
- While it is common for victims to be uncertain about dates, Dr. Ford failed to explain how she was suddenly able to narrow the timeframe to a particular season and particular year.

Dr. Ford has struggled to identify Judge Kavanaugh as the assailant by name.

- No name was given in her 2012 marriage therapy notes.
- No name was given in her 2013 individual therapy notes.
- Dr. Ford’s husband claims to recall that she identified Judge Kavanaugh by name in 2012. At that point, Judge Kavanaugh’s name was widely reported in the press as a potential Supreme Court nominee if Governor Romney won the presidential election.
- In any event, it took Dr. Ford over thirty years to name her assailant. Delayed disclosure of abuse is common so this is not dispositive.

When speaking with her husband, Dr. Ford changed her description of the incident to become less specific.

- Dr. Ford testified that she told her husband about a “sexual assault” before they were married.
- But she told the *Washington Post* that she informed her husband that she was the victim of “physical abuse” at the beginning of their marriage.
- She testified that, both times, she was referring to the same incident.

Dr. Ford has no memory of key details of the night in question—details that could help corroborate her account.

- She does not remember who invited her to the party or how she heard about it.
- She does not remember how she got to the party.

- She does not remember in what house the assault allegedly took place or where that house was located with any specificity.
- Perhaps most importantly, she does not remember how she got from the party back to her house.
 - Her inability to remember this detail raises significant questions.
 - She told the *Washington Post* that the party took place near the Columbia Country Club. The Club is more than 7 miles from her childhood home as the crow flies, and she testified that it was a roughly 20-minute drive from her childhood home.
 - She also agreed for the first time in her testimony that she was driven somewhere that night, either to the party or from the party or both.
 - Dr. Ford was able to describe hiding in the bathroom, locking the door, and subsequently exiting the house. She also described wanting to make sure that she did not look like she had been attacked.
 - But she has no memory of who drove her or when. Nor has anyone come forward to identify him or herself as the driver.
 - Given that this all took place before cell phones, arranging a ride home would not have been easy. Indeed, she stated that she ran out of the house after coming downstairs and did not state that she made a phone call from the house before she did, or that she called anyone else thereafter.
- She does, however, remember small, distinct details from the party unrelated to the assault. For example, she testified that she had exactly one beer at the party and was taking no medication at the time of the alleged assault.

Dr. Ford's account of the alleged assault has not been corroborated by anyone she identified as having attended—including her lifelong friend.

- Dr. Ford has named three people other than Judge Kavanaugh who attended the party—Mark Judge, Patrick “PJ” Smyth, and her lifelong friend Leland Keyser (née Ingham). Dr. Ford testified to the Committee that another boy attended the party, but that she could not remember his name. No others have come forward.
- All three named eyewitnesses have submitted statements to the Committee denying any memory of the party whatsoever. Most relevantly, in her first statement to the Committee, Ms. Keyser stated through counsel that, “[s]imply put, Ms. Keyser does not know Mr. Kavanaugh and she has no recollection of ever being at a party or gathering where he was present, with, or without, Dr. Ford.” In a subsequent statement to the Committee through counsel, Ms. Keyser said that “the simple and unchangeable truth is that she is unable to corroborate [Dr. Ford’s allegations] because she has no recollection of the incident in question.”
 - Moreover, Dr. Ford testified that her friend Leland, apparently the only other girl at the party, did not follow up with Dr. Ford after the party to ask why she had suddenly disappeared.

Dr. Ford has not offered a consistent account of the alleged assault.

- According to her letter to Senator Feinstein, Dr. Ford heard Judge Kavanaugh and Mark Judge talking to other partygoers downstairs while she was hiding in the bathroom after the alleged assault. But according to her testimony, she could not hear them talking to anyone.

- In her letter, she stated, “I locked the door behind me. Both loudly stumbled down the stairwell, at which point other persons at the house were talking with them.”
- She testified that Judge Kavanaugh or Mark Judge turned up the music in the bedroom so that the people downstairs could not hear her scream. She testified that, after the incident, she ran into the bathroom, locked the door, and heard them going downstairs. But she maintained that she could not hear their conversation with others when they got downstairs. Instead, she testified that she “assum[ed]” a conversation took place.
- Her account of who was at the party has been inconsistent.
 - According to the *Washington Post*’s account of her therapy notes, there were four boys in the bedroom in which she was assaulted.
 - She told the *Washington Post* that the notes were erroneous because there were four boys at the party, but only two in the bedroom.
 - In her letter to Senator Feinstein, she said “me and 4 others” were present at the party.
 - In her testimony, she said there were four boys in addition to Leland Keyser and herself. She could not remember the name of the fourth boy, and no one has come forward.
 - Dr. Ford listed Patrick “PJ” Smyth as a “bystander” in her statement to the polygrapher and in her July 6 text to the *Washington Post*, although she testified that it was inaccurate to call him a bystander. She did not list Leland Keyser even though they are good friends. Leland Keyser’s presence should have been more memorable than PJ Smyth’s.

Dr. Ford has struggled to recall important recent events relating to her allegations, and her testimony regarding recent events raises further questions about her memory.

- Dr. Ford struggled to remember her interactions with the *Washington Post*.
 - Dr. Ford could not remember if she showed a full or partial set of therapy notes to the *Washington Post* reporter.
 - She does not remember whether she showed the *Post* reporter the therapist’s notes or her own summary of those notes. The *Washington Post* article said that “portions” of her “therapist’s notes” were “provided by Ford and reviewed by” the *Post*. But in her testimony, Dr. Ford could not recall whether she summarized the notes for the reporter or showed her the actual records.
 - She does not remember if she actually had a copy of the notes when she texted the *Washington Post* WhatsApp account on July 6.
 - Dr. Ford said in her first WhatsApp message to the *Post* that she “ha[d] therapy notes talking about” the incident when she contacted the *Post*’s tipline. She testified that she had reviewed her therapy notes before contacting the *Post* to determine whether the mentioned anything about the alleged incident, but could not remember if she had a copy of those notes, as she said in her WhatsApp message, or merely reviewed them in her therapist’s office.
- Dr. Ford refused to provide any of her therapy notes to the Committee.

- Dr. Ford's explanation of why she disclosed her allegations the way she did raises questions.
 - She claimed originally that she wished for her story to remain confidential, but the person operating the tipline at the *Washington Post* was the first person other than her therapist or husband to whom she disclosed the identity of her alleged attacker. She testified that she had a "sense of urgency to relay the information to the Senate and the president." She did not contact the Senate, however, because she claims she "did not know how to do that." She does not explain why she knew how to contact her Congresswoman but not her Senator.
- Dr. Ford could not remember if she was being audio- or video-recorded when she took the polygraph. And she could not remember whether the polygraph occurred the same day as her grandmother's funeral or the day after her grandmother's funeral.
 - It would also have been inappropriate to administer a polygraph to someone who was grieving.

Dr. Ford's description of the psychological impact of the event raises questions.

- She maintains that she suffers from anxiety, claustrophobia, and post-traumatic stress disorder (PTSD).
 - The date of the hearing was delayed because the Committee was informed that her symptoms prevent her from flying. But she agreed during her testimony that she flies "fairly frequently for [her] hobbies and ... work." She flies to the mid-Atlantic at least once a year to visit her family. She has flown to Hawaii, French Polynesia, and Costa Rica. She also flew to Washington, D.C. for the hearing.
 - Note too that her attorneys refused a private hearing or interview. Dr. Ford testified that she was not "clear" on whether investigators were willing to travel to California to interview her. It therefore is not clear that her attorneys ever communicated Chairman Grassley's offer to send investigators to meet her in California or wherever she wanted to meet to conduct the interview.
- She alleges that she struggled academically in college, but she has never made any similar claim about her last two years of high school.
- It is significant that she used the word "contributed" when she described the psychological impact of the incident to the *Washington Post*. Use of the word "contributed" rather than "caused" suggests that other life events may have contributed to her symptoms. And when questioned on that point, said that she could think of "nothing as striking as" the alleged assault.

The activities of congressional Democrats and Dr. Ford's attorneys likely affected Dr. Ford's account.

- See the included timeline for details.

look at The 2nd front door from 2011.

<https://www.thegatewaypundit.com/2018/09/breaking-christine-ford-caught-in-major-lie-photos-prove-house-updates-occurred-much-earlier-than-senate-testimony/>

by Jim Hoft September 29, 2018

Carlos Leon
-10/11/18

We now have information that shows Christine Ford lied about the entire story.

In her testimony on Thursday, Dr. Ford stated that she put a second door on her house in 2012:

Over the years, I told very, very few friends that I had this traumatic experience. I told my husband before we were married that I had experienced a sexual assault. I had never told the details to anyone — the specific details — until May 2012, during a couples counseling session.

The reason this came up in counseling is that my husband and I had completed a very extensive, very long remodel of our home and I insisted on a second front door, an idea that he and others disagreed with and could not understand.

In explaining why I wanted a second front door, I began to describe the assault in detail. I recall saying that the boy who assaulted me could someday be on the U.S. Supreme Court, and spoke a bit about his background at an elitist all-boys school in Bethesda, Maryland. My husband recalls that I named my attacker as Brett Kavanaugh.

We now have proof that this was a lie — a major lie.

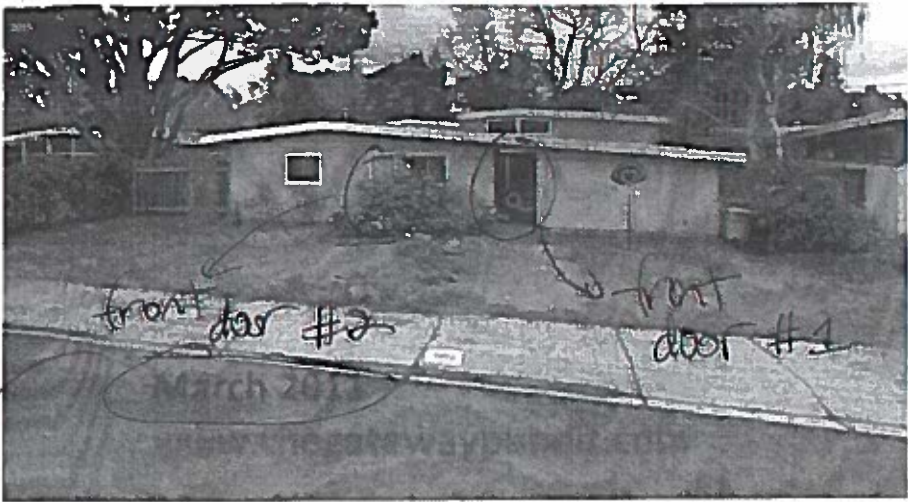
So in a new clip, she talks about it again here. She says the incident in the 1980's is in her medical records twice: "The first time is in 2012 with my husband in couples therapy with the quibbling over the remodel". Very much present tense, as in remodel happening at same time as couples therapy. Again, this is from her opening statements:

"I had never told the details to anyone, the specific details, until May 2012, during a couples counseling session. The reason this came up in counseling is that my husband and I had completed a very extensive, very long remodel of our home, and I insisted on a second front door, an idea that he and others disagreed with and could not understand. In explaining why I wanted a second front door, I began to describe the assault in detail."

And then this clip with Dianne Feinstein during her testimony. "Our house does not look aesthetically pleasing from the curb."

This implied that currently, today, it does not look pleasing. But you can't even see the 2nd front door anymore. Back in the November 2011 google map shot, they already had started putting up posts of the wooden wall, and the walkway and new flowerbeds are already in.

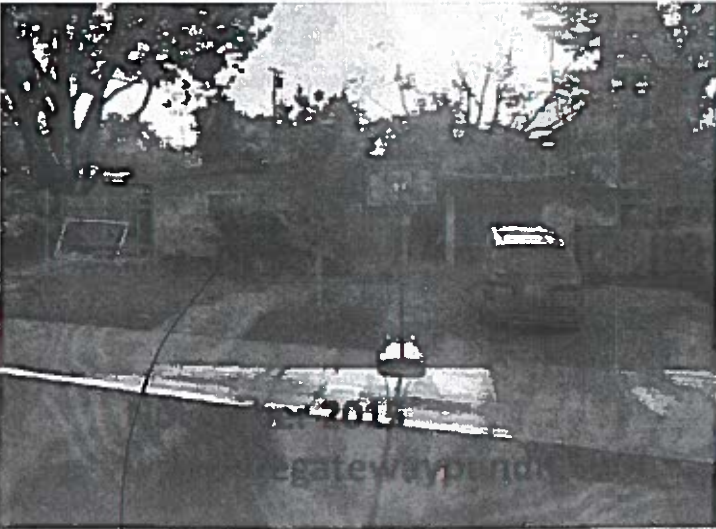
The March 2011 picture shows the new door, and you can see that the remodel (new space) was in the back of the house; by comparing with 2007 photo, you can see the new roofline in the back. The November 2011 image shows the wood wall posts and new pathway in front of the new door area.



Ford's house in November 2011 - The second front door is there.



Here is the same address in 2015 - the same home where the protests took place last week.

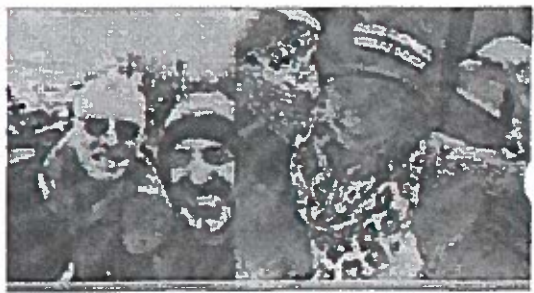


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- NY Times: South Africa's Leaders Killing Each Other
- Man Who Invented Web Disgusted, Creating New
- Avenatti's Kavanaugh Accuser Has Rich History of
- Graham: Investigate 'Despicable' Rollout of Kavanaugh
- US Warship Sails Near Disputed Islands Claimed by
- KellyAnne Conway: 'I'm a Victim of Sexual Assault'
- FBI Investigating After Car Explosion Kills 1 on Allentown

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10/11/18

For The
official
record

RECEIVED

SEP 27 2018

Chief Disciplinary Counsel
State Bar of Texas

OFFICE OF THE CHIEF DISCIPLINARY COUNSEL
STATE BAR OF TEXAS
GRIEVANCE FORM

HAND
DELIVERED

I. GENERAL INFORMATION

Before you fill out this paperwork, there may be a faster way to resolve the issue you are currently having with an attorney.

If you are considering filing a grievance against a Texas attorney for any of the following reasons:

- ~ You believe your attorney is neglecting your case.
- ~ Your attorney does not return phone calls or keep you informed about the status of your case.
- ~ You have fired your attorney but are having problems getting your file back from the attorney.

You may want to consider contacting the Client-Attorney Assistance Program (CAAP) at 1-800-932-1900.

CAAP was established by the State Bar of Texas to help people resolve these kinds of issues with attorneys quickly, without the filing of a formal grievance.

CAAP can resolve many problems without a grievance being filed by providing information, by suggesting various self-help options for dealing with the situation, or by contacting the attorney either by telephone or letter.

I have _____ I have not ☒ contacted the Client-Attorney Assistance Program.

NOTE: Please be sure to fill out each section completely. Do not leave any section blank. If you do not know the answer to any question, write "I don't know."

II. INFORMATION ABOUT YOU -- PLEASE KEEP CURRENT

1. TDCJ/SID # * ☒ Mr. Carlos León
Immigration # N/A

Address: *

City: Austin State: TX Zip Code: *

* - Not providing because I am a whistleblower

2. Employer: *
Employer's Address: *

3. Telephone numbers: Residence: * Work: *
Cell: *
4. Email: *
5. Drivers License # * Date of Birth *
6. Name, address, and telephone number of person who can always reach you.
Name * Address *
Telephone *
7. Do you understand and write in the English language? Yes
If no, what is your primary language? N/A
Who helped you prepare this form? Nobody
Will they be available to translate future correspondence during this process? N/A
8. Are you a Judge? NO
If yes, please provide Court, County, City, State: N/A

II. INFORMATION ABOUT ATTORNEY

→ Bar Card Number : 24002166

Note: Grievances are not accepted against law firms. You must specifically name the attorney against whom you are complaining. A separate grievance form must be completed for each attorney against whom you are complaining.

Attorney name: Elizabeth Cary Grace Address: 301 West 2nd Street, Box 1088
City: Austin State: TX Zip Code: 78767-1088
Telephone number: Work (512) 974-2509 Home / Other /

Have you or a member of your family filed a grievance about this attorney previously?
Yes / No (X) If "yes", please state its approximate date and outcome. N/A

N/A = Not Applicable

Include the names, addresses, and telephone number of all persons who know something about your grievance.

Also, please be advised that a copy of your grievance will be forwarded to the attorney named in your grievance.

See attached 95-page handwritten 9/27/18 grievance that includes copies of relevant evidence, letters, & documents as Exhibits A-2.

V. HOW DID YOU LEARN ABOUT THE STATE BAR OF TEXAS' ATTORNEY GRIEVANCE PROCESS?

Yellow Pages
Internet
✓✓ Other

CAAP
Attorney
Website

Respondent Elizabeth
Cary Grace was not
my attorney.

VI. ATTORNEY-CLIENT PRIVILEGE WAIVER

I hereby expressly waive any attorney-client privilege as to the attorney, the subject of this grievance, and authorize such attorney to reveal any information in the professional relationship to the Office of Chief Disciplinary Counsel of the State Bar of Texas.

I understand that the Office of Chief Disciplinary Counsel maintains as confidential the processing of Grievances.

Signature: N/A Date: N/A

TO ENSURE PROMPT ATTENTION, THE GRIEVANCE SHOULD BE MAILED TO:

THE OFFICE OF CHIEF DISCIPLINARY COUNSEL
P.O. Box 13287
Austin, Texas 78711

I hand delivered this Grievance to the
Office of Chief Disciplinary Counsel at
1414 Colorado, Austin, TX
on September 27, 2018.

Expect me to pick up in person at 1414
Colorado your written notification of the
Classification decision after it has been
made.

- Carlos León 9/27/18

Have you or a member of your family ever filed an appeal with the Board of Disciplinary Appeals about this attorney?

Yes _____ No X If "yes," please state its approximate date and outcome.

N/A

4. Please check one of the following:

_____ This attorney was **hired** to represent me.

_____ This attorney was **appointed** to represent me.

XXX This attorney was hired to represent someone else.

Please give the date the attorney was hired or appointed. ASK the City of Austin Law Department

Please state what the attorney was hired or appointed to do. ASK the

City of Austin Law Department

5. What was your fee arrangement with the attorney? N/A

How much did you pay the attorney? N/A

If you signed a contract and have a copy, please attach.

If you have copies of checks and/or receipts, please attach.

Do not send originals.

6. If you did not hire the attorney, what is your connection with the attorney? Explain briefly

She tried illegally withholding requested public information that was exculpatory evidence to my disadvantage in my defense against a false charge in a case pending at that time in Austin Municipal Court.

7. Are you currently represented by an attorney? NO

If yes, please provide information about your current attorney: N/A

8. Do you claim the attorney has an impairment, such as depression or a substance use disorder? If yes, please provide specifics (your **personal** observations of the attorney such as slurred speech, odor of alcohol, ingestion of alcohol or drugs in your presence etc., including the date you observed this, the time of day, and location).

N/A

9. Did the attorney ever make any statements or admissions to you or in your presence that would indicate that the attorney may be experiencing an impairment, such as depression or a substance use disorder? If so, please provide details.

N/A

IV. INFORMATION ABOUT YOUR GRIEVANCE

1. Where did the activity you are complaining about occur?

County: Travis City: Austin

2. If your grievance is about a lawsuit, answer the following, if known:

a. Name of court N/A

b. Title of the suit N/A

c. Case number and date suit was filed N/A

- d. If you are not a party to this suit, what is your connection with it? Explain briefly.

N/A

If you have copies of court documents, please attach.

3. Explain in detail why you think this attorney has done something improper or has failed to do something which should have been done. Attach additional sheets of paper if necessary.

If you have copies of letters or other documents you believe are relevant to your grievance, please attach. Do not send originals, as they will not be returned. Additionally, please do not use staples, post-it notes, or binding.

95 pages
in total

Carlos León

①

To: Chief Disciplinary Counsel - State Bar
of Texas

Re: Grievance against Elizabeth Gory Grace -
Bar # 24002166

Date: September 27, 2018

I allege that Elizabeth Gory Grace,
Bar # 24002166, Assistant City Attorney
for the City of Austin Law Department,
is guilty of multiple instances & types
of professional misconduct.

Per Texas Rules of Disciplinary Procedure
(TRDP) 1.06 (cc)(1), professional
misconduct includes acts or omissions
by an attorney, individually or in concert
with another person or persons, that
violate one or more of the Texas
Disciplinary Rules of Professional Conduct
(TDRPC).

Per TDRPC - Preamble: Scope paragraph 10
"The Texas Disciplinary Rules of Professional
Conduct... define proper conduct for
purposes of professional discipline. The
Comments also frequently illustrate or
explain applications of the rules, in order
to provide guidance for interpreting the

②

rules and for practicing in compliance with the spirit of the rules."

Paragraph 11 extends, stating "The rules and comments do not, however, exhaust the moral & ethical considerations that should guide a lawyer, for no worthwhile human activity can be completely defined by legal rules."

Per TDRPC - VIII: Maintaining the Integrity of the Profession, Rule P.04 Misconduct, Comments, Paragraph 1 explains that "There are four principal sources of professional obligations for lawyers in Texas: These rules, the State Bar Act, the State Bar Rules, and the Texas Rules of Disciplinary Procedure. All lawyers are presumed to know the requirements of these sources. Rule P.04 (a)(1) provides a partial list of conduct that will subject a lawyer to discipline."

However, on its face, Rule P.04(a)(1-12) appears to provide a comprehensive list of conduct that will subject a lawyer to discipline because the applicable amended 2017 Comment said, "Rule P.04 provides a comprehensive restatement of all forms of conduct that will subject

a lawyer to discipline ... " [See
 Comment 2, Sentence 1 under Rule
 P.04 - Misconduct for version
 immediately prior to current comments]

Paragraph 2 extends, stating that "Many
 kinds of illegal conduct reflect adversely
 on fitness to practice law," so
 "a lawyer should be professionally
 answerable ... for criminal acts that
 indicate a lack of those characteristics
 relevant to the lawyer's fitness for
 the practice of law." In fact, "A
 pattern of repeated criminal acts, even
 ones of minor significance when considered
 separately, can indicate indifference to
 legal obligations that legitimately could
 call a lawyer's overall fitness to
 practice into question."

Therefore, for this Grievance, applicable
 parts of Rule P.04 Misconduct are:

"(a) A lawyer shall not:

- (1) violate these rules knowingly
 assist or induce another to do
 so, or do so through the acts
 of another, whether or not
 such violation occurred in the
 course of a client-lawyer
 relationship;

(4)

(2) Commit a serious crime or commit any other criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(3) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation

Rule 8.05 - Jurisdiction says that,
" (a) A lawyer is subject to the disciplinary authority of this state if admitted to practice in this state," so that the lawyer be "... answerable for his or her conduct occurring in this state ..."

Therefore Elizabeth Cary Grace, State Bar of Texas #24002166, is subject to the disciplinary authority of this state to be answerable for her conduct occurring in this state.

Also because her alleged professional misconduct took place in Texas in 2017 and this Grievance is officially being filed September 27, 2018, the CDC can hold

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Grace accountable for her alleged professional misconduct because it's within the 4-year statute of limitations, per TROP 15.06(A).

Therefore, based on the accompanying evidence, testimony, & analysis, I allege Grace violated the following TDRPCs:

3.03 (a)(1) - Candor toward the tribunal

4.01 (a) - Truthfulness in statements to others

1.02 (c) - Scope & objectives of representation

3.01 - Meritorious claims and contentions

1.15 - Declining or terminating representation

and committed the following Texas Penal Code offenses:

37.02 (a)(1) - Perjury

37.03 (a)(1,2) - Aggravated perjury

37.10 (a)(5) & (c)(1) - Tampering with a governmental record

with 37.03 (a)(1,2) and 37.10 (a)(5) & (c)(1) being felonies.

Each rule & law Grace violated will be explicated next to show Grace knowingly flouts her lack of honesty & integrity,

⑥

two fundamental characteristics relevant to the lawyer's fitness to practice law.

Rule 3.03 - Candor Toward the Tribunal

(a)(1) - A lawyer shall not knowingly make a false statement of material fact to a tribunal

Elizabeth Gray Grace is a lawyer. When deciding whether certain information is subject to required public disclosure under the Public Information Act the Office of The Attorney General / Attorney General Patton is a tribunal because "tribunal" denotes any governmental body or official or any other person engaged in a process of resolving a particular dispute or controversy, according to the Texas Disciplinary Rules of Professional Conduct, Terminology Section.

A "material fact" is a fact that is significant or essential to the issue at hand, per Black's Law Dictionary, 10th edition, p. 710.

A statement is material, regardless of the admissibility of the statement under the rules of evidence, if

it could have affected the course or outcome of the official proceeding, per Texas Penal Code 37.04 (9).

"Official proceeding" means any type of administrative, executive, legislative, or judicial proceeding that may be

conducted before a public servant, per Texas Penal Code 1.07 (a)(33).

"Proceeding" means any procedural means for seeking redress from a tribunal or agency, per Black's Law Dictionary, 10th edition, p. 1398.

Therefore, because Attorney General Paxton is a public servant per Texas Penal Code 1.07 (a)(41) and because Grace's April 25, 2017 letter to Paxton was the procedural means for seeking redress from a tribunal (See Exhibit A) that letter was part of an official proceeding.

Therefore, any statements of fact within that letter that could have affected the course or outcome of that official proceeding were statements of material fact.

Per TDREC - terminology, "knowingly" denotes actual knowledge of the fact in

question, including that a person's knowledge may be inferred from circumstances.

Therefore, Grace's actual knowledge of material facts stated in her April 25, 2017 letter to ~~the~~ Paxton may be inferred from her longstanding, close working relationship with the Austin Police Department Central Records Division, with respect to Public Information Requests for incident reports and dashboard camera video recordings, evidenced by OAG's Open Records Letter 2016-1001 (2016) to Grace that Grace + Renee Moore, Administrative Supervisor for Central Records - Austin Police Department, explicitly referenced in their written communications to the OAG + me (See Exhibits A, B, + C).

Also, ~~as~~ Lee Crawford, Grace's supervisor, officially claiming in writing that Grace "remains a trusted advisor + counsellor to APD" and does a "Good job running APD PIA process", per Grace's 2016-2017 Success Strategy Performance Review (SSPR) Austin Law Department evaluation by Crawford (See Exhibits D + E), also evidences Grace's ~~the~~ actual knowledge of material facts in her April 25, 2017.

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letter to Paxton.

Therefore, all statements Grace allegedly wrote in her April 25, 2017 letter to Paxton should be considered knowingly made.

Per Black's Law Dictionary, 10th edition, "false" means untrue (p. 718) and "untrue" means not correct (p. 1773).

Therefore, any & all not correct statements made by Grace should be considered false.

Applying Rule 3.03

In Grace's April 25, 2017 letter to Paxton, seeking his decision whether certain information is subject to required public disclosure under the Public Information Act, Chapter 552 of the Government Code, Grace knowingly made ~~false~~ statements of material facts to a tribunal:

- 1) "Re: Open Records Request from Mr. Carlos León received April 7, 2017. (ORR#04-07290)"
- 2) "On April 3, 2017 in accordance with OR2016-10001, which is a previous determination issued by your office to the department, the

department sent Mr. León the required notice advising him of the department's intention to rely on OR 2016-10001 to withhold some of the requested information pursuant to Section 552.100 of the Government Code ¹"

3) " ¹ Mr. León was provided with the basic information on April 3, 2017. Since the alleged offense is a class C Misdemeanor and no offense report was created, this consisted of the CAD report related to this incident."

4) " Mr. León then resubmitted his request on April 7, 2017."

These far-false statements of material facts to a tribunal will next be deconstructed & connected to show they were essential to the issue at hand & how they could have affected the course of the outcome of the official proceeding.

False Statement 1

False statement 1 refers to an Open Records Request (OR #04-07290) from

Mr. Carlos León received April 7, 2017, that I, Mr. Carlos León, never made.

I, Mr. Carlos León, made my one & only Open Records Request (ORR # 3-06708) on March 31, 2017, which Grace's letter allegedly refers to, "... The Austin Police Department ("the department") received a request for information from Mr. Carlos León on March 31, 2017," though my last name is León, not Leon [See Exhibit F].

On April 7, 2017 I handed in to APD a three-page cover letter and a 12-page packet addressed to Renee Moore, Administrative Supervisor for Central Records for the Austin Police Department, in which I explicitly stated, "This cover letter and attached 12-page packet may be reproduced & disseminated to legally hold Ms. Renee Moore accountable for her official words & actions in the court of public opinion, as well as the Texas Judicial System." [See Exhibits G & H].

Misrepresenting the April 7, 2017 materials

Grace & Moore allegedly wrongly relabeled those April 7, 2017 materials an Open Records Request evidenced by the "04-07290" written on page 1 of the April 7, 2017 cover letter in the upper left hand corner by

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Someone other than me because APD allegedly assigns the Open Records Request number to a Public Information Request made to "the department," not me. Also, someone other than me wrote "4/21" in the upper right hand corner of page 1 of the April 7, 2017 cover letter, allegedly referring to April 21, 2017.

The April 7, 2017 materials to Reese Moore that I handed in to APD on April 7, 2017 did not have the "04-07290" or "4/21" written on them.

The copy you're looking at that has the "04-07290" and "4/21" written on page 1 of the cover letter was what the City of Austin Law Department gave me on July 20, 2018 responding to my July 5, 2018 Public Information Request to them for:

- a) the request for information that Grace enclosed with her April 25, 2017 letter to Paxton, which Grace referred to as "aws/Enclosures" on page 2 of her April 25, 2017 letter to Paxton and that Joseph Behnke, Assistant Attorney General - Open Records Division explicitly referred to in his June 28, 2017 written response to Grace (ORA2017-14425 - See Exhibit I) on page 1, "... pursuant to section 552.301(e),

a governmental body must submit to this office within fifteen business days of receiving an open records request... a copy of the written request for information."

- (b) The Open Records Request from Mr. Carlos León received April 7, 2017 that Grace explicitly mentions in Paragraph 1, Sentence 4 of her April 25, 2017 letter to Paxton

Therefore, Grace allegedly used the "04-07290" to try making Paxton think the non-existent April 7, 2017 "resubmission" from "Mr. León" triggered her request for ruling from him on releasing public information actually requested by me, Mr. León. The ~~one~~ only time on March 31, 2017 (See Exhibit ~~000~~ F).

Therefore, Grace allegedly used the "4/21" to try making Paxton think that she sent him a copy of the written request for information on April 21, 2017, within fifteen business days of my true March 31, 2017 request, to comply with Government Code 552.301(e), though "... The envelope in which the department sent the information required by Section 552.301(e) was postmarked April 25, 2017." (OR2017-

14425, page 2, paragraph 4 [in this instance..."]
Sentence 10 - See Exhibit I)

Conclusion

Therefore False Statement 1 was essential to the OAG determining whether or not to withhold the requested public information & could have affected the outcome of the official proceeding.

Therefore, Grace not only tried making the OAG respond to her false narrative, but tried to fool the OAG with respect to the starting date of the procedural obligations placed on the City of Austin Law Department seeking the attorney general's decision, per Section 552.301 of the Texas Government Code re: the ten business days & fifteen business days requirements explicitly described in Behrke's response on page 1, paragraph 3 (OE 2017-14425 - See Exhibit I).

Had Grace successfully conned the OAG with the fraudulent April 7, 2017 date to start the 10-business day & 15-business day deadline clocks specified in Government Code 552.301(b) & 552.301(e), Grace's written communications to the OAG postmarked April 20, 2017 & April 25, 2017 would have met those deadlines legally forcing the OAG to wrongly respond to a

non-existent resubmission instead of rightly consider the one & only ("initial") March 31, 2017 submission. I made & rightly use March 31, 2017 as the date to start the 10-business day + 15-business day deadline clocks specified in 552.301(b) + 552.301(e) that applied to the City of Austin Law Department's official communications to the OAG, which were part of the official proceeding.

Though the OAG saw through Grace's ruse, evidenced by OAG 2017-14425's paragraph 4, sentences 8-12, it did have affected the course or outcome of the official proceeding.

False Statement 2

False Statement 2 refers to a blatant misapplication of OAG's previous determination and a lie contradicting a statement made by Renee Moore in Moore's April 3, 2017 letter to me, as well as the reality I experienced April 3, 2017.

Grace cited a previous determination issued by the OAG to justify withholding the incident report + dash cam video recording. I requested

to try convincing Paxton that she acted legally, following his applicable generalizable 2016 ruling (OR-2016-1004) addressed specifically to her (See Exhibit B).

However, as I explicitly told Moore in writing in my April 7, 2017 materials to Moore, which Grace had allegedly seen before writing + sending her April 25, 2017 letter to Paxton because Grace knowingly mislabeled those materials a resubmission request in her April 25, 2017 letter to Paxton, the OAG's previous determination clearly did NOT apply to my March 31, 2017 Public Information Request because the requested incident report + dash cam video recording are non-responsive, basic information.

In OR2017-14425 (Exhibit I), paragraph 4, sentences 4-7, page 2, Assistant Attorney General Behnke said the same thing to Grace in his June 28, 2017 response to her April 25, 2017 letter to Paxton (Exhibit A). Still, Grace's "legal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal," per Comment 3 - Misleading Legal Argument.

Misrepresenting a factual basis for jurisdiction

In fact, The Supreme Court of Texas Professional Ethics Committee's Opinion 499

(Texas Bar Journal - Feb. 1994) already formally addressed a related question to what Grace did:

Does an in-house attorney (Grace) for a government agency (City of Austin Law Department) violate any disciplinary rule if he or she represents to an opposing attorney (me, Mr. León, representing myself pro se though I am not an attorney) and an administrative law judge (Paxton acting as tribunal) that a factual basis for jurisdiction exists when he or she knows it does not?

The Supreme Court of Texas Professional Ethics Committee decided that "An attorney's representation to the administrative law judge that a factual basis for jurisdiction existed if the attorney knew that it did not exist is a violation of DR 3.01 and DR 3.03."

DR 3.03 provides: (a) A lawyer shall not knowingly: (1) make a false statement of material fact or law to a tribunal; (2) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act.

DR 3.01 provides: "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless the lawyer reasonably believes that there is a basis for doing so that is not frivolous."

The Supreme Court of Texas Professional Ethics Committee also ruled that, "... if he knew no factual basis for jurisdiction existed, the lawyer for the government agency violated DR 4.01 by representing to his opposing attorney that jurisdiction existed. DR 4.01 provides:

"In the course of representing a client a lawyer shall not knowingly: (a) make a false statement of material fact or law to a third person, or (b) fail to disclose a material fact to a third person when disclosure is necessary to avoid making the lawyer a party to a criminal act or knowingly assisting a fraudulent act perpetrated by a client."

Though 1994's DR 3.01, DR 3.03, & DR 4.01 have been replaced by current versions in today's TDRPCs, their matching language & spirit are identical. See Exhibit to read

Opinion 499 in its entirety.

Though the OAG foiled Grace's scheme, her False statement 2 could have affected the course or outcome of the official proceeding.

In fact in OR2017-14425 Paragraph 4, Sentence 7 is evidence that Grace did confuse the OAG (Behnke) on one point because Behnke said: "Because the initial request sought only video recordings associated with a specified incident, ... " Though my one & only request ("initial") sought the incident report as well as the dash cam video recording (See Exhibits I and ~~II~~ F).

Therefore the OAG (Behnke) apparently was wrongly considering the non-existent April 7, 2017 resubmission, which actually was the April 7, 2017 materials to Moore to notify Moore of Moore's illegal decisions & actions, the "initial" request because the April 7, 2017 materials referenced the dash cam video recordings only because Moore told me in Moore's April 3, 2017 letter to me "There was no incident report" which turned out to be false because there was a CAD report, explicitly referenced in footnote 1, sentence 2 of

Grace's April 25, 2017 letter to Paxton
(See Exhibits G, H, C, & K).

Sent vs. Handed

In False Statement 2, Grace said,
"... the department sent Mr. León
the required notice ..."

However, APD handed me, Mr. León,
the required notice, Moore's April
3, 2017 letter to me, because I
refused to provide any contact
information & chose to pick up
correspondence and any other
information from the department's
headquarters building on 18th Street
downtown, which Grace's
April 25, 2017 letter to Paxton
explicitly & truthfully references in
footnote 2 at the bottom of page
2 (See Exhibit A).

Therefore, not only did Grace lie again,
re: "sent" but she contradicted
herself in her April 25, 2017
letter to Paxton.

Representation vs. Reality

In False Statement 2, Grace said about me & my request that it was "the required notice advising him of the department's intention to rely on OR 2016-10001 to withhold some of the requested information pursuant to Section 552.108 of The Government Code 2".

However, the truth is the department (APD) was not advising me of the department's intention to withhold some of the requested information, but telling me the department's determination to withhold all the requested information, evidenced by Moore saying to me that "... the Department is releasing no information to you as there is no incident report, and is withholding the remaining responsive information subject to Section 552.108(a)(1) of the Government Code," in Moore's April 3, 2017 letter to me (See Exhibit C).

Therefore, this part of False Statement 2 was intended to fool the OAG into believing that APD was NOT withholding

all the requested non-responsive, basic information, though it truly was, and to trick the OAG into believing that APD was correctly applying previous determination under Section 552.100 of the Government Code to justify withholding some of the requested information, ~~and~~ though it truly & clearly was not.

Therefore, as a whole, False Statement 2 was essential to the issues at hand & could have affected the course or outcome of the ~~the~~ official proceeding had Grace successfully fooled Paxton (OAG) into believing her misrepresentations & lies.

False Statement 3

False Statement 3 is footnote 1 at the bottom of page 1 of Grace's April 25, 2017 letter to ~~the~~ Paxton.

False Statement 3 says that, "Mr. Leon was provided with the basic information on April 3, 2017... this consisted of the CAD report related to this incident"

April 3, 2017 vs. July 3, 2018

However, the truth is that I, Mr. León, was not provided any basic information on April 3, 2017, matching Moore's truthful statement in Moore's April 3, 2017 letter saying, "... the Department is releasing no information to you..." (See Exhibit C).

The (AD report (Exhibit K), as well as a copy of the requested dash cam video recording, were first given to me in person July 3, 2018 at APD headquarters on 8th Street in downtown Austin, only after Janet Jackson, APD Community Liaison, told me in person on July 2, 2018 that APD had stuff waiting for me to pick up and after Todd Bircher, Sergeant Investigator, Travis County District Attorney's office told me the same in person the morning of July 3, 2018.

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Therefore, Grace's False Statement 3 was allegedly intended to fool the OAG into believing that APD followed the law by providing the requested incident report to me before the deadline passed, though the truth is the exact opposite.

That's why Grace used passive voice, "was provided," to intentionally obfuscate who allegedly provided the basic information on April 3, 2017 because no one provided me, Mr. ~~Leon~~ León, the CAD report on April 3, 2017.

Perhaps Grace, in the fake, ex post facto anti-reality she tried creating on paper and dragging me & the OAG down into in real life, could tell you who provided Mr. León whoever he is, the CAD report on April 3, 2017.

Regardless, Grace's False Statement 3 was essential to the issues at hand at the time & could have affected the course or the outcome of the official proceeding because by falsely implying that I, Mr. León, was Mr. León, she falsely asserted that I had received non-responsive basic information, that I requested, before the legal deadline had passed to fool the OAG into believing Moore & Grace had followed the law to project their fake credibility as real to strengthen their argument for illegally withholding the requested dash cam video recording that was rightfully mine from the beginning.

False Statement 4

Grace's false Statement 4 says, "Mr. Leon then resubmitted his request on April 7, 2017."

Though Mr. Leon, whoever he is, may have resubmitted his request on April 7, 2017 in Grace's made up anti-reality, I, Mr. Leon, never resubmitted my one & only March 31, 2017 Open Record Request in reality. See the argument & evidence already laid out under False Statement 1's explication for more details.

Nevertheless, Grace's False Statement 4 was essential to the issues at hand at the time & could have affected the course or outcome of the official proceeding for the reasons already laid out under False Statement 1's explication.

Conclusion

Therefore, I allege Grace is guilty of professional misconduct by violating TDRPC 3.03 (a)(1) by knowingly

making false statements of material fact to a tribunal.

Rule 4.01 - Truthfulness in Statements to Others

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of material fact or law to a third person

Per Comment 2 - False statements of fact, a lawyer violates paragraph (a) of this Rule either by making a false statement of law or material fact or by incorporating or affirming such a statement made by another person.

Such statements will violate this Rule, however, only if the lawyer knows they are false and intends thereby to mislead.

Applying Rule 4.01(a) to Grace's 4/25/17 letter

When Grace, a lawyer, was representing a client (Austin Police Department), she knowingly made several false statements of material fact to a third person (me, Mr. Leon)

because her April 25, 2017 letter to the tribunal (Paxton / OAG) was cc'd to me, Mr. León [See page 2 of Exhibit A].

Though the actual cc was for "Mr. Carlos León" whoever he is, because Grace was trying to make Paxton believe Mr. Carlos León was me, Mr. Carlos León, and because APD knowingly & intentionally handed me Grace's April 25, 2017 letter on July 3, 2018 her false statements to Mr. León (and as false statements to me, Mr. León, with respect to Grace violating Rule 4.01 (a)).

Per Comment 2, whether Grace made all those false statements of material facts in her April 25, 2017 letter or incorporated or affirmed one or more false statements of material facts made by Moore or anyone else, Grace violated Rule 4.01 (a).

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Satisfying the Rule 4.01 (a) violation requirements stated in Comment 2, Grace allegedly knew her false statements of material facts were

false with intent to mislead when she made them, per the definitions' evidence + arguments I laid out in my explanation + application of Rule 3.03.

Therefore, I allege Grace is guilty of professional misconduct by violating TDRPC 4.01(a).

Rule 1.02 - Scope and Objectives of Representation

Rule 1.02 - Scope and Objectives of Representation

(c) A lawyer shall not assist or counsel a client to engage in conduct that the lawyer knows is criminal or fraudulent.

"knows" denotes actual knowledge of the fact in question, including that a person's knowledge may be inferred from circumstances, per TDRPC - Terminology section.

"Fraudulent" denotes conduct having a purpose to deceive and not merely negligent misrepresentation or failure to apprise

another of relevant information, per
T.D.R.P.C - Terminology section.

"Deceive" means the act of intentionally leading someone to believe something that is not true; an act designed to trick; A false statement of fact made by a person knowingly or recklessly with the intent that someone else will act on it, *
per Black's Law Dictionary, 10th edition, p. 4911

Though Moore allegedly started criminal + fraudulent actions in Moore's April 3, 2017 letter to me, Grace allegedly assisted Moore to continue criminal + fraudulent conduct with her (Grace's) April 25, 2017 letter to Paxton.

Comment 8 explicitly addresses this situation:

"When a client's course of action has already begun and is continuing, the lawyer's responsibility is especially delicate. The lawyer may not reveal the client's wrongdoing, except as permitted or required by Rule 1.05.

However, the lawyer also must avoid furthering the client's unlawful purpose, for example by suggesting how it might be concealed. A lawyer may not continue assisting a client in conduct that the lawyer originally supposes is legally proper but then discovers is criminal or fraudulent. Withdrawal from the representation, therefore, may be required. See Rule 1.15 (a)(1)."

Renee Moore's criminal & fraudulent actions
- 4/13/17

Moore allegedly started criminal & fraudulent actions in Moore's April 3, 2017 letter to me (See Exhibit C), in which Moore knowingly & falsely:

i) referred to the requested incident report & dash cam video recording as responsive information, when they are actually non-responsive information;

ii) Omitted saying the requested incident report & dash cam video recording are basic information;

iii) Said there was "no incident report," when there was an incident report, the CAD report, which is basic.

non-responsive information that must be released to the public upon request (see Exhibit K);

iv) said "The Department is releasing no information," meaning the requested incident report & dash cam video recording, because of Section 552.108(a)(4) of the Government Code "pursuant to the previous determination granted by the Office of the Attorney General in Open Records Letter No. 2016-10001," though the OAG said "the department was not authorized to rely upon Open Records Letter No. 2016-10001 to withhold the information from the requestor under Section 552.108 of the Government Code," which Open Records Letter No. 2016-10001 made clear from the beginning (See Exhibits I & B)

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v) said, "In order to promote governmental efficiency and encourage the prompt release of information as required by the Public Information Act, we have relied upon Open Records Letter No. 2016-10001 (2016) in

responding to your request," though they did not promote governmental efficiency and did not encourage the prompt release of information required by the Public Information Act by not relying upon Open Records Letter NO. 2016-10001 (2016) in responding to my request.

Therefore, though Moore allegedly started the criminal & fraudulent actions in Moore's April 3, 2017 letter to me, Grace allegedly assisted Moore to continue the criminal & fraudulent conduct with her April 25, 2017 letter to Paxton.

Though Grace likely recognized Moore's criminal & fraudulent actions from the get go, even if she initially thought Moore's actions were not criminal and not fraudulent, Grace had to discover their criminality & fraudulence when she examined my April 7, 2017 materials for Moore that she & Moore knowingly mislabeled resubmission request. OR# 04-07290, which Grace enclosed with her April 25, 2017 letter to Paxton.

Yet, per Grace's April 25, 2017 letter to Paxton, Grace (the lawyer) tried furthering Moore's (the client's) unlawful purpose to not release the requested information that Moore ~~is~~ was legally

required to release by trying to
 conceal Moore's unlawful purposes
 by knowingly:

- i) bringing a frivolous proceeding
 & asserting and controverting
 issues therein, violating TDRPC 3.01
- ii) making false statements of material
 facts to a tribunal (Paxton),
 violating TDRPC 3.03
- iii) making false statements of material
 fact to a third person (me,
 Mr. León), violating TDRPC 4.01

Therefore, I allege that Grace is guilty
 of professional misconduct by violating
 TDRPC 1.02(c) by assisting a
 client (Moore/APD) to engage in conduct
 that the lawyer knows is criminal
 or fraudulent.

Rule 3.01 - Meritorious Claims and Contentions

A lawyer shall not bring or defend a
 proceeding, or assert or controvert an issue
 therein unless the lawyer reasonably believes

that there is a basis for doing so that is not frivolous.

Per Black's Law Dictionary, 10th edition, p. 783, "frivolous" means lacking a legal basis or legal merit. Comment 2 says, "A filing ... is frivolous if it contains knowingly false statements of fact."

Therefore, Grace (a lawyer) did bring a frivolous proceeding and did fraudulently assert issues therein because proceeding ID# 663838 (assigned by the OAG in response to Grace's April 25, 2017 letter to Paxton):

- 1) was based on non-existent resubmission ORR # 04-07290;
- 2) did not meet the procedural requirements mandated by Section 552.361 of the Government Code;
- 3) had no legal basis to rely upon the OAG's Open Records Letter No. 2016-1001 to withhold the requested information under Section 552.100 of the Government Code; and

- 4) contained several knowingly false statements of fact, as documented in my explanation of Grace violating Rule 3.03

Therefore, I allege Grace is guilty of professional misconduct by violating TD RPC 3.01.

Texas Penal Code 37.02 - Perjury

Texas Penal Code 37.02 - Perjury says that:

(a) A person commits an offense if, with intent to deceive and with knowledge of the statement's meaning:

- (1) he makes a false statement under oath and the statement is required or authorized by law to be made under oath

Per Texas Rules of Disciplinary Procedure 1.06 (U), "intent" means the conscious objective or purpose to accomplish a particular result, including that a person's intent may

be inferred from circumstances. Though the definition is for part XV of the TRDP, it's applicable for this statute in this case, too, *prima facie*.

Per Black's Law Dictionary, 10th edition, p. 491, "deceive" means "the act of intentionally leading someone to believe something that is not true; A false statement of fact made by a person knowingly or recklessly with the intent that someone else will act on it."

Per Black's Law Dictionary, 10th edition, "false" means untrue (p. 718) and untrue means not correct (p. 1773).

I argue that the four false statements Grace made in her April 25, 2017 letter to Paxton, documented & explicated in this Grievance under my argument for Grace violating TDRPC Rule 3.03 (a)(1), were made under her oath of attorney, because she made them in writing on a governmental record in her official capacity as Assistant City Attorney.

I also argue that her false statements under oath are required or authorized by law to be made under oath because Texas Government Code §2.037 (a)(1,2) says that each person admitted to practice law shall,

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before receiving a license, take an oath that the person will support the Constitution of the United States and this State and honestly demean himself in the practice of law.

In fact, for the purpose of the perjury statute, an "oath" is a pledge to act in a truthful and faithful manner (*Marth v. State*, 1995).

Also, per my arguments for Grace violating TDRPC Rule 3.03(a)(1), Grace had knowledge of the false statements' meanings when she made them to Paxton and Grace intended to deceive Paxton with them.

Therefore, I allege Grace committed perjury in her April 25, 2017 letter to Paxton.

Texas Penal Code 37.03 - Aggravated Perjury

Texas Penal Code 37.03 - Aggravated Perjury says that:

(a) A person commits an offense if he commits perjury as defined in

Section 37.02, and the false statement

(1) is made during or in connection with an official proceeding

and

(2) is material.

Within my arguments showing Grace violating TDRPC Rule 3.03 (a)(1), I showed that Grace made false statements during or in connection with an official proceeding, and that those false statements were material because they could have affected the course or outcome of those proceedings being related to the decision-making process of proceeding (Kniec v. State, 2002)

Therefore, because I previously showed Grace committed perjury, I now allege that Grace committed aggravated perjury in her April 25, 2017 letter to Paxton.

Tampering with a governmental record - Texas Penal Code 37.10

(a) A person commits an offense if he:

(5) makes, presents, or uses a governmental record with

knowledge of its falsity

(C)(1) - if actor's intent is to defraud or harm another, the offense is a state jail felony

Grace's April 25, 2017 letter to Paxton is a governmental record per Texas Penal Code 37.01 (2)(A). Grace allegedly wrote & signed that letter, meaning Grace allegedly made that governmental record. Grace allegedly knew the falsity of Grace's letter because Grace's signature on the letter allegedly authenticates its content, meaning Grace was aware of the nature of Grace's conduct, per Texas Penal Code 6.03 (b).

Therefore, I allege Grace tampered with a governmental record, violating Texas Penal Code 37.10 (a)(5).

In addition, Grace allegedly intended to defraud Paxton & me by misrepresenting material facts in Grace's April 25, 2017 letter to Paxton to induce Paxton & me to rely primarily on its written misrepresentation to his & my detriment (Nehaus v. Kain).

Per Texas Penal Code 1.07 (a)(25), Grace allegedly intended to harm me by making a letter to cause me the loss of the requested incident report & dashboard camera videotape recording to disadvantage my defense against the false PEDERSTIAN IN ROADWAY charge for case 0560652 in the Austin Municipal Court system that was still pending on April 25, 2017.

Therefore, per Texas Penal Codes 37.10 (a)(5) & (c)(1), Grace committed a state jail felony when she allegedly made a governmental record with knowledge of its falsity with intent to de-fraud Paxton & me and to harm me.

In addition, when Grace sent her April 25, 2017 letter to Paxton, Grace allegedly used a governmental record with knowledge of its falsity with intent to defraud Paxton & me and to harm me, committing another state jail felony; per Texas Penal Codes 37.10 (a)(5) & (c)(1).

Rule 1.15 - Declining or Terminating Representation

Rule 1.15 - Declining or Terminating Representation

Says that:

(a) A lawyer shall decline to represent a client or, where representation has commenced, shall withdraw from the representation of a client, if

(1) the representation will result in violation of applicable rules of professional conduct or other law

Therefore, because a lawyer (Grace) did not decline to represent a client (APD) or, where representation has ~~commenced~~ commenced, withdraw from the representation of a client (APD) when the representation would result in violation of applicable rules of professional conduct:

- TDRPC 3.03 (a)(1)
- TDRPC 4.01 (a)
- TDRPC 1.02 (c)
- TDRPC 3.01

or other laws:

- Texas Penal Code 37.02 (a)(1)
- Texas Penal Code 37.03 (a)(1,2)
- Texas Penal Code 37.10 (a)(5) + (c)(1)

I allege Grace is guilty of professional misconduct by violating TDRPC 1.15(a)(1).

Conclusion

Per the evidence, testimony, & analysis provided, I allege Elizabeth Cary Grace, Bar # 24002166, is guilty of professional misconduct by violating TDRPCs 3.03(a)(1), 4.01(a), 1.02(c), 3.01, & 1.15 and committing serious crimes per Texas Penal Codes 37.02(a)(1), 37.03(a)(1,2), & 37.10(a)(5) & (c)(1).

Per TDRPC's Preamble, the Texas Disciplinary Rules of Professional Conduct are rules of reason that define conduct for purposes of professional discipline (Scope - Paragraph 10).

Lawyers are officers of the legal system, guardians of the law, playing a vital role in the preservation of society, so that a consequent obligation of lawyers is to maintain the highest standards of ethical conduct (A Lawyer's Responsibilities - Paragraph 1).

A lawyer's conduct should conform to the requirements of the law, demonstrating respect for the legal

system and for those who serve it (Paragraph 4).

Practitioners guided by Preamble principles continue the nobleness of the legal profession, permitting no compromise (Paragraph 9).

However, based on the evidence, TDRPCs, & Texas Penal Code, Elizabeth Cary Grace's professional misconduct did not guard the law to not preserve Society to not maintain the highest standards of ethical conduct.

Grace's professional misconduct did not conform to the requirements of the law to not demonstrate respect for the legal system or for those who serve it to not be guided by Preamble principles to not follow the TDRPCs to not be noble to compromise the legal profession.

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Therefore, Grace's professional misconduct threatens the integrity of the legal profession & impugns the reputation of the State Bar of Texas.

Begin holding Elizabeth Cary Grace accountable for her words & actions ~~by~~ against the State Bar of Texas & rule of law by

classifying this Grievance a Complaint to move the disciplinary process forward against her.

Guidelines for Imposing Sanctions

Part XV of the Texas Rules of Disciplinary Procedure (TRDP) issues guidelines for imposing sanctions to punish professional misconduct.

Per TRDP 15.02, in imposing a sanction after a finding of professional misconduct, the disciplinary tribunal shall consider the following factors:

- (a) the duty violated
- (b) the Respondent's level of culpability
- (c) the potential or actual injury caused by the Respondent's misconduct
- (d) the existence of aggravating or mitigating factors

"Potential injury" in Part XV of these Rules is the harm to a client, the public, the legal system or the profession that is reasonably foreseeable at the time of the Respondent's misconduct, and which but for some intervening factor or event, would inevitably have

resulted from the Respondent's misconduct, per TRDP 1.06(BB).

Per Texas Penal Code 1.07(a)(25)
"harm" means anything reasonably regarded as loss, disadvantage, or injury.

Per TRDP 15.09 (B)(2), aggravating factors related to this Grievance which may be considered include:

- (b) dishonest motive
- (c) pattern of misconduct
- (d) multiple violations
- (i) substantial experience in the practice of law
- (k) illegal conduct

Per TRDP 15.09 (D)(b), agreeing to the client's demand for certain improper behavior or result is neither an aggravating nor mitigating factor.

Per TRDP 16.02(D) Grace is not eligible for the Grievance Referral Program because this Grievance is not a minor misconduct case because her misconduct involves dishonesty, fraud, & misrepresentation.

TRDP's Appendix A maps specific TDRPC Rule violations to specific TRDP guidelines for imposing sanctions for those specific TDRPC violations.

TDRPC violations of Rules 3.03, 4.01, & 1.02 all map to TRDP Guideline 15.05A. TDRPC violations of Rule 3.01 map to TRDP Guideline 15.05B. TDRPC violations of Rule 1.15 map to TRDP Guideline 15.07.

In addition, violating Texas Penal Codes 37.02, 37.03, & 37.10 maps to TRDP 15.06.

Therefore my specific recommendation to disbar Elizabeth Ann Grace for her specific acts of professional misconduct documented in this Grievance directly emanate from the specific TRDP Guidelines.

TRDP Guideline 15.05A

TDRPC violations of Rules 3.03, 4.01, & 1.02 all map to TRDP Guideline 15.05A.

TRDP 15.05A - Violations of duties owed to the legal system - False

Statements, Fraud, and Misrepresentation targets conduct that involves dishonesty, fraud, deceit or misrepresentation to a court or another.

Because an administrative tribunal is a court-like decision-making authority that resolves disputes, esp. those in which one disputant is a government agency or department (Black's Law Dictionary, 10th edition, pp. 1737-1738), "court" includes a tribunal (Paxton/OAG) and "another" includes me (León) when applying TRDP 15.05A to the particulars of this Grievance against Elizabeth Cary Grace, Assistant City Attorney for the Law Department of the City of Austin!

Therefore, per TRDP 15.02:

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- (a.) The violated duties of TRDP 15.05A were knowingly making false statements of material facts to a tribunal, knowingly making false statements of material facts or laws to a third person, and assisting or counseling a client to engage in conduct that the

lawyer knows is criminal or fraudulent.

(b) The Respondent (Grace) clearly was culpable for what she said & did if she wrote & signed her April 25, 2017 letter to Paxton.

(c) The potentially serious injury caused by Respondent's (Grace's) misconduct was the harm to the public (me), the legal system, & the profession that was the intentional loss of exculpatory evidence, the illegally withheld requested incident report (CAD & report) & the dashboard camera video recording, disadvantaging my defense against the false PEDESTRIAN IN ROADWAY charge for case 0560652, which was still pending April 25, 2017.

The intervening event that prevented actual injury was Case 0560652 being dismissed for insufficient evidence April 27, 2017, two days later (See Exhibit L).

(d) Per TRDP 15.09 (B)(2), the aggravating factors were (b), (c), (d), (i), & (k).

Therefore, in cases involving conduct that involves dishonesty, fraud, deceit, or misrepresentation to a court (tribunal - Paxton/OAG) or another (me - León), disbarment is generally appropriate when the Respondent (Grace), with the intent to deceive the court (tribunal - Paxton/OAG) or another (me - León) makes false statements and causes potentially serious injury to a party (me - León) or causes a potentially significant adverse effect on the legal proceeding, like fooling Paxton/OAG into contradicting own Open Records ruling 2016-10001 to rule against releasing the requested basic, non-responsive information (incident report + dash cam video recording) that must be released, per Texas Government Codes 552.001, 552.002, 552.022, + 552.108(C).

TRDP Guideline 15.05 B

TDRPC violations of Rule 3.01 map to TRDP Guideline 15.05 B

TRDP 15.05 B - Violations of Duties Owed to the Legal System: Abuse of the Legal Process targets conduct involving failure to bring a meritorious claim.

Per TRDP 15.02 :

(a) The violated duties of TRDP 15.05 B were knowingly engaging in an abuse of the legal process with the intent to obtain a benefit for another (Austin Police Department + City of Austin Law Department not releasing the requested public information, that had to be released, to benefit their case against me in Case 8560652), to cause potentially serious injury to other party (me-Leon), and to cause potential serious interference with a legal proceeding (the intentional loss of exculpatory evidence, the illegally withheld requested incident report + dash cam video recording, disadvantaging my defense against the false PEDESTRIAN IN ROADWAY charge for case 8560652 which was still pending April 25, 2017).

(b) The Respondent (Grace) clearly was culpable for what she said + did

if she wrote & signed her April 25, 2017 letter to Paxton.

- (c) The potentially serious injury caused by Respondent's (Grace's) misconduct was the harm to the public (me - León), the legal system, & the profession that was the intentional loss of exculpatory evidence, the illegally withheld requested incident report (CAV report) & the dashboard camera video recording, disadvantaging my defense against the false PEDESTRIAN IN ROADWAY charge for case P560652 which was still pending April 25, 2017.

The intervening event that prevented actual injury was Case P560652 being dismissed for insufficient evidence April 27, 2017, two days later.

- (d) Per TRDP 15.09 (B)(2), the aggravating factors were (b), (c), (d), (i), & (k).

In cases involving failure to bring a meritorious claim, disbarment

is generally appropriate when a Respondent (Grace) knowingly engages in an abuse of the legal process with the intent to obtain a benefit for another and cause potentially serious injury to another party or potentially serious interference with a legal proceeding.

TRDP Guideline 15.07

TRRPC violations of Rule 1.15 maps to TRDP Guideline 15.07.

TRDP 15.07 - Violations of other duties as a professional includes improperly not declining to represent a client and/or not withdrawing representation of a client when necessary.

Per TRDP 15.02:

- (a) The violated duties of TRDP 15.07 were knowingly engaging in conduct that is a violation of duty owed as a professional with the intent to obtain a benefit for another (Austin Police Department & City of Austin Law Department not releasing the requested all information

that had to be released, to benefit their case against me in case 8560652, to cause potentially serious injury to other party (me - Leon), and to cause potential serious interference with a legal proceeding (the intentional loss of exculpatory evidence, the illegally withheld requested incident report & dash cam video recording, disadvantaging my defense against the false PEDESTRIAN IN ROADWAY charge for case 8560652, which was still pending April 25, 2017).

(b) The Respondent (Grace) clearly was culpable for what she said & did if she wrote & signed her April 25, 2017 letter to Paxton.

(c) The potentially serious injury caused by Respondent's (Grace's) misconduct was the harm to the public (me - Leon), the legal system, & the profession that was the intentional loss of exculpatory evidence, the illegally withheld requested incident report (RAD report) & the dashboard camera video recording, disadvantaging my defense against the false PEDESTRIAN IN ROADWAY charge for case 8560652.

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which was still pending April 25, 2017.

The intervening event that prevented actual injury was case #560652 being dismissed for insufficient evidence April 27, 2017, two days later.

(d) Per TRDP 15.09 (B)(2), the aggravating factors were (b), (c), (d), (i), & (k).

In cases involving violations of other duties as a professional, disbarment is generally appropriate when a Respondent (Grace) knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for another, and causes potentially serious injury to the public or the legal system.

TRDP Guideline 15.06

TRDP 15.06 (A)(1) - Failure to Maintain Personal Integrity targets the commission of criminal acts that reflect adversely on the

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Respondent's honesty, trustworthiness, or fitness as a lawyer in other respects.

Per TRDP 15.02:

- (a) The violated duties of TRDP 15.06(A) were Grace allegedly committing multiple acts of perjury, aggravated perjury, & tampering with a governmental record, violating Texas Penal Codes 37.02 (a)(1), 37.03 (a)(1, 2), & 37.10 (a)(5) & (c)(1).
- (b) The Respondent (Grace) clearly was culpable for what she said & did if she wrote & signed her April 25, 2017 letter to Patton.
- (c) The potentially serious injury caused by Respondent's (Grace's) misconduct was the harm to the public (me-León), the legal system, & the profession that was the intentional loss of exculpatory evidence. The illegally withheld requested incident report (CAD report) & the dashboard camera video recording, disadvantaging my defense against the false PEDESTRIAN IN ROADWAY charge for case 0560652, which was still pending April 25, 2017.

The intervening event that prevented actual injury was case 0566652 being dismissed for insufficient evidence April 27, 2017, two days later.

(d) Per TRDP 15.09 (B)(2), the aggravating factors were (b), (c), (d), (i), + (k).

In cases involving failure to maintain personal integrity, disbarment is generally appropriate when (a) a Respondent (Grace) engages in serious criminal conduct a necessary element of which includes administration of justice, false swearing, misrepresentation, or fraud or (b) a Respondent (Grace) knowingly engages in any other conduct involving the failure to maintain personal integrity and causes serious injury or potential injury to others or the legal system.

In this case both (a) + (b) apply,

TRDP 15.06 (B) - Failure to Maintain the Public Trust targets cases involving public officials who engage in conduct that impedes the administration of justice.

Assistant City Attorney Elizabeth Cary Grace is a public official because she is a governmental employee who appears to have substantial responsibility for + control over conduct of governmental affairs
 [Pardo v. Simons, 2004; Rogers v. Cassidy, 1997]

Per TRDP 15.02:

(a) The violated duties of TRDP 15.06(B) are Grace allegedly committing multiple acts of perjury, aggravated perjury, + tampering with a governmental record, violating Texas Penal Codes 37.02 (a)(1), 37.03 (a)(1,2), + 37.10 (a)(5) + (c)(1).

(b) The Respondent (Grace) clearly was culpable for what she said + did if she wrote + signed her April 25, 2017 letter to Paxton.

(c) The potentially serious injury caused by Respondent's (Grace's) misconduct was the harm to the public (me-Leon), the legal system, + the profession that was the intentional loss of exculpatory evidence, the illegally withheld requested incident report (AD report) + the dashboard camera video recording, disadvantaging

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my defense against the false
PEDESTRIAN IN ROADWAY charge
for case 0560652, which was
still pending April 25, 2017.

The intervening event that
prevented actual injury was
case 0560652 being dismissed
for insufficient evidence April
27, 2017, two days later.

(d) Per TRDP 15.09 (B)(2), the
aggravating factors were
(b), (c), (d), (i), + (k).

In cases involving public officials (Grace)
who engage in conduct that impedes
the administration of justice,
disbarment is generally appropriate
when a Respondent (Grace) in
an official or governmental position
knowingly misuses the position with
the intent to obtain a significant
advantage for another ~~or with intent~~
(Prosecuting Assistant City Attorney
Chase Reed Gommillion) or
with intent to cause potentially
serious injury to a party (Mc-León)
or to the integrity of the legal
process.

Note: See Grievance 201703538

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against Chase Reed Gamillion for more detailed information on Case 8560652 and its antecedent, Case 8529140.

Therefore, based on the Texas Rules of Disciplinary Procedure, I argue that Elizabeth Cary Grace, Bar #24002166, should be disbarred for her alleged multiple serious violations of the Texas Disciplinary Rules of Professional Conduct and her alleged multiple serious crimes violating the Texas Penal Code.

- Carlos León

Exhibit List

Exhibit A - Grace's April 25, 2017 letter to Paxton

Exhibit B - OAG's (Behnke's) Open Records Letter 2016-10001 (2016) to Grace

Exhibit C - Moore's April 3, 2017 letter to León

Exhibit D - Crawford's Comment on Grace's relationship to APD in Crawford's evaluation of Grace

Exhibit E - Crawford's Comment on Grace's Success running the APD PIA process

Exhibit F - León's one & only Open Records Request CORR #3-06700) - March 31, 2017

Exhibit G - León's April 7, 2017 3-page Cover letter to Moore

Exhibit H - León's April 7, 2017 12-page packet to Moore

Exhibit I - OAG's (Behnke's) June 28, 2017 written response

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To Grace - OR2017-14425

Exhibit J- The Supreme Court of Texas
Professional Ethics
Committee's Opinion 499
(Feb. 1994)

Exhibit K- The CAD report for
January 8, 2017 at
22:21 (10:21 PM)

Exhibit L- The April 27, 2017
dismissal of Case
0560652



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City of Austin

Law Department

City Hall, 301 West 2nd Street, P.O. Box 1088
Austin, Texas 78767-8828
(512) 974-2268

Writer's Direct Line
(512) 974-2509

Writer's Fax Line
(512) 974-2312

April 25, 2017

VIA FIRST CLASS MAIL

Honorable Ken Paxton
Attorney General of Texas
Open Records Division
MC-014
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Request from Mr. Carlos León received April 7,
2017. (ORR#04-07290)

Dear Attorney General Paxton,

This is a follow up to my letter of April 20, 2017. As noted in that letter, the Austin Police Department ("the department") received a request for information from Mr. Carlos León on March 31, 2017. On April 3, 2017, in accordance with OR2016-10001, which is a previous determination issued by your office to the department, the department sent Mr. León the required notice advising him of the department's intention to rely on OR2016-10001 to withhold some of the requested information pursuant to section 552.108 of the Government Code.¹ Mr. León then resubmitted his request on April 7, 2017. Thus, today is the twelfth business day since the receipt of this request. The department believes the requested information is excepted from disclosure under section 552.108 of the Government Code. A copy of the video at issue is enclosed.

Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Generally, a governmental body claiming section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the

¹ Mr. León was provided with the basic information on April 3, 2017. Since the alleged offense is a Class C Misdemeanor, and no offense report was created, this consisted of the CAD report related to this incident.

Exhibit A

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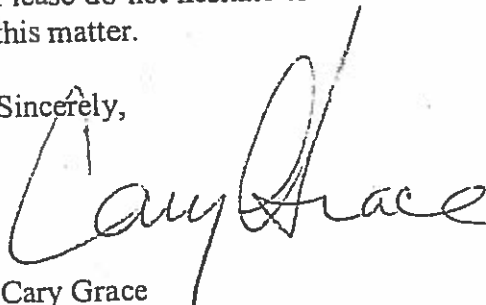
Hon. Ken Paxton
April 25, 2017
Page 2 of 2

requested information would interfere with law enforcement. See Government Code §§ 552.108(a)(1), 552.108(b)(1), and 552.301(e)(1)(a); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

The information at issue pertains to criminal charge filed against Mr. Léon for Pedestrian in Roadway. This charge is currently pending in Municipal Court under Case No. 8560652. Thus, it is the department's position that the release of the requested information would interfere with the detection, investigation, or prosecution of crime, and the department seeks to withhold this information under section 552.108(a)(1).

Please do not hesitate to contact me at (512) 974-2509 if you have any questions concerning this matter.

Sincerely,



Cary Grace
Assistant City Attorney

aws/
Enclosures

cc: (without enclosures)
Mr. Carlos Léon²

² Mr. Léon has refused to provide any contact information. Instead, he has agreed to personally pick up correspondence and other information from the department's headquarters building on 8th Street downtown. Thus, the department will make available for pick up a copy of this correspondence at its headquarters location.

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KEN PAXTON
ATTORNEY GENERAL OF TEXAS

Exhibit B

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May 3, 2016

Ms. Cary Grace
Assistant City Attorney
Law Department
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2016-10001

Dear Ms. Grace:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 609587 (PIR# 24692).

The Austin Police Department (the "department") received a request for a specified incident report.¹ You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The department states the submitted information relates to an ongoing criminal investigation.

¹We note the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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Upon review, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information.

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; see also Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

Finally, the department asks us to issue a previous determination permitting the department to withhold information subject to section 552.108(a)(1) of the Government Code without the necessity of requesting an attorney general opinion. See *id.* § 552.301(a) (allowing governmental body to withhold information subject to previous determination); *Houston Chronicle v. Mattox*, 767 S.W.2d 695, 698 (Tex. 1989) (acknowledging this office has authority under section 552.301 of the Government Code to decide what constitutes a previous determination); Open Records Decision No. 673 (2001) (describing the two types of previous determinations). We note section 552.011 of the Government Code states "[t]he attorney general shall maintain uniformity in the application, operation, and interpretation" of the Act, chapter 552 of the Government Code. Gov't Code § 552.011. Pursuant to this legislative mandate, section 552.011 grants the attorney general the authority to "prepare, distribute, and publish any materials, including detailed and comprehensive written decisions and opinions, that relate to or are based on" the Act. *Id.* We further note the Act requires governmental bodies to promptly release public information requested under the Act within a reasonable time, without delay. *Id.* § 552.221(a); Open Records Decision No. 664 at 5 (2000).

With the foregoing in mind and upon due consideration, we issue this ruling, which constitutes a previous determination allowing the department to withhold certain information under section 552.108(a)(1) of the Government Code without the necessity of first requesting an attorney general decision, so long as the department has not previously received a request for the information from the same requestor in the manner described below. See ORD 673. This decision is intended to encourage the prompt release of requested public information by increasing the efficiency of the review process under the Act by clearly identifying information the department may withhold under the circumstances delineated below. See Gov't Code §§ 552.011, .221; Open Records Decision Nos. 684 (2009), 673.

Accordingly, the department may withhold certain information under section 552.108(a)(1) of the Government Code without the necessity of first requesting a ruling from this office in the following circumstances:

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1. the department makes a good faith determination that the information at issue relates to the detection, investigation, or prosecution of crime, and the release of the information would interfere with the detection, investigation, or prosecution of an open or pending criminal matter;
2. the department will release at least the basic information about an arrested person, an arrest, or a crime (the "releasable information") from the requested information;
3. the department will produce the releasable information to the requestor pursuant to the requirements of the Act within five business days after the date the request for information was received;
4. the department will provide the requestor with the notice included in Appendix A of this ruling when the department responds to the request pursuant to the requirements of this previous determination; and
5. the department has not previously received a request for the same information from the same requestor after the department has provided the requestor with the releasable information.

See Gov't Code § 552.011. If any of the above circumstances change—or any other law, facts, or circumstances involving the requestor or the status of the requested information changes—the department may not rely upon this ruling as a previous determination to withhold the information at issue. See ORD 673 at 7. Additionally, the department may not rely on this previous determination in response to requests in which basic information is not responsive. For example, no basic information is at issue in a request for only a dashboard camera video recording or 9-1-1 call audio recording. Thus, the department may not rely upon this previous determination in response to those types of requests. Furthermore, this previous determination does not apply to situations in which other law may require some or all of the information at issue to be disclosed. See, e.g., Crim. Proc. Code arts. 2.139 (detailing right of access to videos made in connection with various types of driving while intoxicated offenses), 2.29 (detailing right of access to written report to law enforcement agency of alleged violation of Penal Code section 32.51); Gov't Code §§ 411.081-1410 (detailing rights of access to criminal history record information), 560.002(1)(A) (detailing rights of access to fingerprints and other biometric identifiers); Transp. Code §§ 550.065 (detailing rights of access to crash report forms), 724.018 (detailing right of access to blood or breath specimen analysis results). We also note this previous determination does not permit the disclosure of basic information in those instances in which the entirety of the information at issue must be withheld. See, e.g., Fam. Code §§ 58.007 (detailing circumstances under which certain information related to juvenile offenders must be withheld in its entirety), 261.201 (detailing circumstances under which certain information related to investigations of child abuse or neglect must be withheld in its entirety); Open Records Decision No. 393 (1983) (stating, because the identifying information of a sexual assault

victim was inextricably intertwined with other releasable information, the governmental body was required to withhold the information in its entirety). We further note this previous determination does not permit the department to withhold citations; DIC-24 statutory warnings; DIC-25 notices of suspension; criminal trespass warnings; notices of code violations; triplicate forms; or information subject to section 552.007 or section 552.022 of the Government Code, other than information subject to section 552.022(a)(1). See Gov't Code §§ 552.007, .022(a)(1)-(18), .108(a)(1). However, the use of this previous determination does not preclude the department from withholding information pursuant to other statutory authority or previous determinations that apply to the department. See, e.g., *id.* §§ 552.1175(f), .130(c), .136(c), .147(b); ORD 684.

If the department's use of this previous determination does not fall within all of the circumstances delineated above, the requirements of the Act apply, including section 552.301 of the Government Code, and deadlines under the Act run from the date the department received the initial written request for information. See Gov't Code § 552.301(a); *Mattox*, 767 S.W.2d at 698. Consequently, misapplication of this previous determination may result in the presumption the requested information is public. See Gov't Code § 552.302. Thus, if the department is unsure as to the applicability of this previous determination to information responsive to a request for information, the department should request a ruling from this office. Additionally, this office may modify or withdraw this previous determination for any reason, including, but not limited to, misapplication of this previous determination. See *id.* § 552.011; *Mattox*, 767 S.W.2d at 698; see also Open Records Decision Nos. 485 at 3 (1987), 673 at 5. Finally, if the department later requests a ruling from this office in response to a second request for the same information from the same requestor, the department should notify this office it relied upon this previous determination in its response to the initial request.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

(67 of 95)



City of Austin

Founded by Congress, Republic of Texas, 1839
Police Department, 715 East 8th Street, Austin, Texas 78701-3397 Telephone 512/974-5000

Exhibit C

April 3, 2017

Carlos Leon

RE: ORR #3-06708 for 17-0081471

Dear Mr. Leon:

On March 31, 2017, we received your public information request dated March 31 for the incident report and dash cam video for the above-referenced incident involving you. In order to promote governmental efficiency and encourage the prompt release of information, as required by the Public Information Act, we have relied upon Open Records Letter No. 2016-10001 (2016) in responding to your request. We do so within five business days of your request.

The department has made a good faith determination the information you requested:

- deals with the detection, investigation, or prosecution of crime and the release of the records would interfere with the detection, investigation, or prosecution of an open or pending criminal matter.

This information is subject to Section 552.108(a)(1) of the Government Code. The Department has also determined you have not previously requested this information.¹ Therefore, pursuant to the previous determination granted by the Office of the Attorney General in Open Records Letter No. 2016-10001, the Department is releasing no information to you as there is no incident report, and is withholding the remaining responsive information subject to Section 552.108(a)(1) of the Government Code.

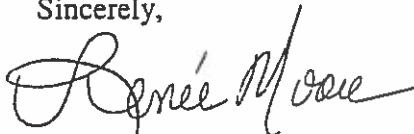
- Video recording(s)

If you have questions regarding the use of this previous determination, please call the Department at 512-974-5117, or for more information concerning your rights and the responsibilities of the Department, please visit the Office of the Attorney General's website at <https://www.texasattorneygeneral.gov/og/information-about-552.108a1-previous-determinations>, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839.

Carlos Leon
April 3, 2017
Page 2

You may also review general information about the Public Information Act, including the types of information included in basic information, in the 2016 Public Information Handbook at http://www.texasattorneygeneral.gov/files/og/publicinfo_hb.pdf.

Sincerely,



Renee Moore
Administrative Supervisor
Central Records
Austin Police Department

¹If you request this information a second time, the department must request a ruling from the Office of the Attorney General (the "OAG") in order to withhold the information. See Open Records Letter No. 2016-10001.

(69 of 95)

Exhibit D

70

Employee: Cary Grace

Division: General Counsel

Fiscal Year: 2016

Major Responsibility Area: Department Service Standard

Client Service Standard:

The City Attorney's goal is to provide excellent legal advice, assist clients with ethics issues, and provide creative business solutions. Every employee is challenged to think with a corporate perspective and to maintain the professionalism to achieve this vision.

Description of key tasks and responsibilities:

To achieve our client service standard, attorneys should:

- 1) Always recognize that the City is the client, not an individual department, Council member, or employee.
- 2) Maintain a positive approach to tasks assigned as problems to be solved; and strive to be creative.
- 3) Act beyond minimum job duties to promote creative solutions.
- 4) Treat clients and each other ethically, and with dignity and respect.
- 5) Collaborate with supervisors and colleagues on sensitive legal issues.
- 6) Manage and prioritize workload to meet client expectations.
- 7) Display solid professional and ethical judgment based on experience.

Individual Performance Measures (meeting these standards is a minimum requirement for achieving a "successful performance" rating, but does not automatically assure that rating):

- No more than 3 demonstrated instances of noncompliance with key tasks identified above.

Mid-year Performance Rating

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unsatisfactory Performance	Performance Needs Improvement	Successful Performance	Commendable Performance	Outstanding Performance

Comments:

Cary is a trusted advisor for APD, the Law Dept., and other client Depts. Very good understanding of how City Atty. protects the City.

Year-end Performance Rating

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unsatisfactory Performance	Performance Needs Improvement	Successful Performance	Commendable Performance	Outstanding Performance

Comments:

Cary remains a trusted advisor & counsellor to APD, EAG, & other Depts. She is also an engaged and active member of the Law Dept. and well respected by her peers & colleagues.

Exhibit E

71

Employee: Cary Grace

Dept/Division: General Counsel

Fiscal Year: 2016-17

Priority # 5 Major Responsibility: Supervision and Leadership

Primary Responsibility: May supervise other attorneys or staff on an acting or interim basis; provides regular, extensive mentoring and training to lower level attorneys on legal issues and legal skills; leads project teams and cross-Divisional work teams; handles special assignments requiring a high level of legal skill and political acumen.

Description of key tasks:

- 1) Educate and instruct other attorneys.
- 2) Delegate appropriately.
- 3) Be knowledgeable about the status of matters.
- 4) Manage and lead projects and work teams.

Individual Performance Measure(s)

(Must have at least one measure to capture the key tasks listed above)

- 1) Accomplish key tasks at the level of the Performance Standard stated above.
- 2) No more than two valid documented incidents during the review period of non-achievement of the Performance Standard stated above.

Mid-year Performance Rating

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unsatisfactory Performance	Performance Needs Improvement	Successful Performance	Commendable Performance	Outstanding Performance

Comments:

- Good job running APD PIA process
- Works well w/Neil & Zach on PIA knowledge xfer

Year-end Performance Rating

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unsatisfactory Performance	Performance Needs Improvement	Successful Performance	Commendable Performance	Outstanding Performance

Comments:

Cary & Allen remain a smooth, well-functioning team on APD - PIA work

(71 of 95)

(72)



SSPR

Success Strategy Performance Review COA Employee Plan

Fiscal Year: 2016-17

Department Law Department	Division General Counsel	Fiscal Year 2017	Plan Start Date 10/1/2016
Employee Name: Cary Grace	Title: Assistant City Attorney V		
Supervisor's Name: Lee Crawford	Title: Division Chief		

This plan is not intended as a substitute for COA policies, job description, department policies and procedures or operating procedures for which the employee is accountable. This plan is a high-level description of the supervisor's expectations regarding performance in the employee's major responsibility areas, applicable COA competencies and the employee's own development. This plan serves to capture and communicate these expectations and to define how success in the performance of the employee's job will be measured.

During SSPR Planning Meetings the supervisor will review the following items with the employee:

- ☐ Major job responsibilities, competencies and performance expectations including but not limited to the contents of this SSPR plan.
- ☐ Employee development plan.
- ☐ Department policies and procedures regarding workplace safety.

City of Austin Vision	We want Austin to be the most livable community in the country.
Department Mission	The mission of the Law Department is to serve the City by providing exemplary legal services to city leaders and employees so that they can govern lawfully with the highest level of integrity.
Department Goals related to position	<ol style="list-style-type: none"> The Law Department will focus on specific client needs and will provide legal advice to the client that is: <ol style="list-style-type: none"> Timely at an 85 percent client satisfaction rate; and Clear, relevant, and communicated effectively at a 98 percent client satisfaction rate. Evaluate outside counsel costs for effective and efficient use of funds each fiscal year by implementing a contract monitoring system and by maintaining the average outside counsel services below \$400 per hour. Provide 80 sessions of legal risk management training to City employees, officials and appointees, which will result in reduced legal liability. Increase Law Department employee skills and expertise by providing 8 hours of relevant substantive in-house continuing education.
Department Program(s) related to position	<ol style="list-style-type: none"> Opinions and Advice Advocacy and Dispute Resolution Support Services
Department Activity(s) related to position	<ol style="list-style-type: none"> Open Government General Counsel Land Use and Real Estate Municipal Operations Criminal Prosecution Litigation Utility and Regulatory Public Information Departmental Support Services

(73)

Exhibit F

OPEN RECORDS REQUEST

Incident Date: 01/08/17

Location: Maiden Ln +

Guadalupe

Incident Type: Pedestrian Stop

Approximate time: Late evening

Date of Request: 3/31/17

I hereby request the full report for incident no. CAD# 170081471 that occurred on 01/08/17.

Name:

Carlos León

RECD BY

AP7363

3/31 C

14:23

Mailing Address:

Email:

Phone No:

Fax No:

- REFUSED TO GIVE

ADDRESS & PHONE #

I would like my report to be:

mailed
faxed
picked up

by me, in person only

Signature

Additional Comments:

In addition to the full report required by Texas Code of Criminal Procedure 2.133 (b), I request the dashboard camera video from Officer McCoy's (#7553) vehicle showing the entire Pedestrian crossing of Guadalupe that she claimed, on record to have seen.

NOTE: Requested information cannot be emailed.

(73 of 95)

Carlos León

Exhibit G

74

04-07290

April 7, 2017

4/21

Cover Letter

Per the Public Information Act & Open Records Letter NO. 2016-10001 (2016), Austin Police Department's Central Records must release non-responsive, basic information, like a dashboard camera video recording, in a timely manner.

However, per Administrative Supervisor Renee Moore's signed April 3, 2017 letter to me, MS. Moore tried to lulight me by unlawfully withholding requested dashboard camera video evidence by intentionally misinterpreting Exas Attorney General Paxton's clear, explicit ruling to intentionally misapply previous determination by oppositely & wrongly labeling the requested dashboard camera video recording evidence responsive, though she claims to have relied upon Open Records Letter NO. 2016-10001 (2016) to respond to my legal request.

Similarly, MS. Moore's letter also references requesting the information a second time so that the department must request a ruling from the Office of the Attorney General

(1 of 3)

(75)

in order to withhold the requested information, which is ass-backwards + unnecessary because per Texas law and Attorney General Paxton's explicit ruling in Open Records Letter No. 2016-10001 (2016), MS. Moore must release the requested information by the deadline triggered by my first request.

Therefore, the attached 12-page packet contains four documents

- 1) A copy of the April 7, 2017 letter from Mr. Carlos León to MS. Renee Moore - Administrative Supervisor, Central Records, Austin Police Department - documenting her blatant misapplication of previous determination to unlawfully withhold non-responsive, basic information dashboard camera video evidence lawfully requested per the Public Information Act, thereby committing official misconduct by allegedly tampering with a governmental record, committing official oppression, + abusing her official capacity
- 2) A copy of MS. Moore's April 3, 2017 letter to Mr. Carlos León RE: ORR # 3-06708 for 17-0081471
- 3) A copy of Open Records Letter No. 2016-10001 (2016)
- 4) A copy of Mr. Carlos León's March 31, 2017 Open Records Request

his cover letter and attached 12-page packet may be produced & disseminated to legally hold ms. Renee Moore accountable for her official words & actions in the court of public opinion as well as the Texas Judicial System,

In Jesus name,
~~Carlos León~~
Carlos León

∴ Texas Attorney General Paxton
Travis County District Attorney - Special Prosecution Division
Austin City Council
Better Business Bureau
Austin Public Safety Commission
Austin Police Monitor
Municipal Court Trial Judge
Austin Monitor

Carlos León

April 7, 2017

(77)
Exhibit H

To: Renee Moore

Follow: RE: ORR #3-06708 for 17-008/471

Ms. Moore,

Your April 3, 2017 letter to me (see attached) stated, "the Department is releasing no information to you as there is no incident report, and is withholding the remaining responsive information subject to Section 552.108(a)(1) of the Government Code - video recordings" because "we have relied upon Open Records Letter No. 2016-10001 (2016) in responding to your request."

Open Records Letter No. 2016-10001 (2016) [see attached] issues a ruling, "which constitutes a previous determination allowing the department to withhold certain information under Section 552.108(a)(1) of the Government Code without the necessity of first requesting an attorney general decision."

However, that Open Records Letter also says Section 552.108 does not except from disclosure basic information

(78)

ying basic information must be released. That Letter
ys basic information refers to the information held to
public in the Houston Chronicle case (531 S.W. 2d
- 186-88). Per Houston Chronicle, "a detailed description
the offense in question" is basic information (187).
'cause you said there is no incident report, the
shboard video camera evidence of my entire crossing of
Guadalupe at Maiden Lane constitutes a detailed description
the offense in question.

en Records Letter no. 2016-10001 (2016) agrees, saying
The department may not rely on this previous determination
response to requests in which basic information is not
sponsive. For example, no basic information is at
sue in a request for only a dashboard camera video
ording... Thus, the department may not rely upon this
enous determination in response to those types of requests.
efore, the dashboard camera video evidence I requested is
I responsive, meaning you falsely & oppositely labeled it
sponsive in your letter to me.

efore, you blatantly misapplied the previous determination
ard to my legal request for the dashboard camera
eo evidence from Officer McRay's vehicle showing my
ire crossing of Guadalupe at Maiden Lane for → (2 of 5)
+127

CAD # 170081471 that occurred on 01/08/17 that she claimed to have seen.

That Open Records Letter also says that "if the department is unsure as to the applicability of this previous determination to information responsive to a request for information, the department should request a ruling from this office."

Therefore, because you did NOT request a ruling from the Attorney General's office before wrongly denying my request for the dash cam video, you were NOT unsure about your denying action - evidence of your intent.

"Intent" is the purpose to use a particular means to effect a certain result (James Stewart & Co. v. Law). That is "intentional" which one does with knowledge of the facts (Atlantic Pipe Line Co. v. Brown County).

Texas Code of Criminal Procedure 3.04 (1) says "official misconduct" means an offense that is an intentional or knowing violation of a law committed by a public servant while acting in an official capacity as a public servant.

Texas ~~Code~~ Penal Code 1.07 (41)(A) defines a public servant as a person employed as an employee of government. (3 of 5)

Texas Penal Code 37.10 (a)(3) says a person commits the offense of tampering with a governmental record if he (or she) intentionally conceals or otherwise impairs the availability of governmental record. Texas Penal Code 37.10 (c)(1) says the actor's intent is to defraud or harm another, the offense is a State jail felony. Texas Penal Code 1.07 (25) defines "harm" as anything reasonably regarded as loss, disadvantage, or injury.

Therefore, you allegedly are guilty of official misconduct by tampering with a governmental record by intentionally impairing availability of the requested dashboard camera video to me by putting me at disadvantage at trial by the suppression of evidence that is rightfully mine per the Public Information Act and Open Records Letter NO. 2016-10001 (2016).
 Official misconduct also includes official oppression and abuse of official capacity.

- Texas Penal Code 39.03 (a), (a2), (b), a public servant acting under color of his (or her) office or employment commits an offense of official oppression if he (or she) intentionally denies or impedes another in the exercise of any right, knowing his conduct is unlawful. A public servant acts under color of his (or her) office or employment if he (or she) purports to act in an official capacity.

Per Texas Penal Code 39.02 (a)(1,2), a public servant ^(P) commits abuse of official capacity if, with intent to harm or defraud another, he (or she) intentionally or knowingly violates a law relating to the public servant's office or employment.

Because the department's use of previous determinations to block my request is false, the requirements of the Public Information Act apply, including Section 552.301 of the Government Code, and deadlines under the Act run from the date the department received the initial written request for information on March 31, 2017, per Open Records Letter NO. 2016-10001 (2016).

In Jesus name,

~~Carlos León~~

Carlos León

10/1 at 9:51



City of Austin

Founded by Congress, Republic of Texas, 1839
Police Department, 715 East 8th Street, Austin, Texas 78701-3397 Telephone 512/974-5000

April 3, 2017

Carlos Leon

RE: ORR #3-06708 for 17-0081471

Dear Mr. Leon:

On March 31, 2017, we received your public information request dated March 31 for the incident report and dash cam video for the above-referenced incident involving you. In order to promote governmental efficiency and encourage the prompt release of information, as required by the Public Information Act, we have relied upon Open Records Letter No. 2016-10001 (2016) in responding to your request. We do so within five business days of your request.

The department has made a good faith determination the information you requested:

- deals with the detection, investigation, or prosecution of crime and the release of the records would interfere with the detection, investigation, or prosecution of an open or pending criminal matter.

This information is subject to Section 552.108(a)(1) of the Government Code. The Department has also determined you have not previously requested this information.¹ Therefore, pursuant to the previous determination granted by the Office of the Attorney General in Open Records Letter No. 2016-10001, the Department is releasing no information to you as there is no incident report, and is withholding the remaining responsive information subject to Section 552.108(a)(1) of the Government Code.

- Video recording(s)

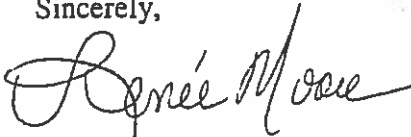
If you have questions regarding the use of this previous determination, please call the Department at 512-974-5117, or for more information concerning your rights and the responsibilities of the Department, please visit the Office of the Attorney General's website at <https://www.texasattorneygeneral.gov/og/information-about-552.108a1-previous-determinations>, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839.

(23)

Carlos Leon
April 3, 2017
Page 2

You may also review general information about the Public Information Act, including the types of information included in basic information, in the 2016 Public Information Handbook at http://www.texasattorneygeneral.gov/files/og/publicinfo_hb.pdf.

Sincerely,



Renee Moore
Administrative Supervisor
Central Records
Austin Police Department

¹If you request this information a second time, the department must request a ruling from the Office of the Attorney General (the "OAG") in order to withhold the information. See Open Records Letter No. 2016-10001.

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KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 3, 2016

Ms. Cary Grace
Assistant City Attorney
Law Department
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2016-10001

Dear Ms. Grace:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 609587 (PIR# 24692).

The Austin Police Department (the "department") received a request for a specified incident report.¹ You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The department states the submitted information relates to an ongoing criminal investigation.

¹We note the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

(P5)

Upon review, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information.

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; see also Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

Finally, the department asks us to issue a previous determination permitting the department to withhold information subject to section 552.108(a)(1) of the Government Code without the necessity of requesting an attorney general opinion. See *id.* § 552.301(a) (allowing governmental body to withhold information subject to previous determination); *Houston Chronicle v. Mattox*, 767 S.W.2d 695, 698 (Tex. 1989) (acknowledging this office has authority under section 552.301 of the Government Code to decide what constitutes a previous determination); Open Records Decision No. 673 (2001) (describing the two types of previous determinations). We note section 552.011 of the Government Code states "[t]he attorney general shall maintain uniformity in the application, operation, and interpretation" of the Act, chapter 552 of the Government Code. Gov't Code § 552.011. Pursuant to this legislative mandate, section 552.011 grants the attorney general the authority to "prepare, distribute, and publish any materials, including detailed and comprehensive written decisions and opinions, that relate to or are based on" the Act. *Id.* We further note the Act requires governmental bodies to promptly release public information requested under the Act within a reasonable time, without delay. *Id.* § 552.221(a); Open Records Decision No. 664 at 5 (2000).

With the foregoing in mind and upon due consideration, we issue this ruling, which constitutes a previous determination allowing the department to withhold certain information under section 552.108(a)(1) of the Government Code without the necessity of first requesting an attorney general decision, so long as the department has not previously received a request for the information from the same requestor in the manner described below. See ORD 673. This decision is intended to encourage the prompt release of requested public information by increasing the efficiency of the review process under the Act by clearly identifying information the department may withhold under the circumstances delineated below. See Gov't Code §§ 552.011, .221; Open Records Decision Nos. 684 (2009), 673.

Accordingly, the department may withhold certain information under section 552.108(a)(1) of the Government Code without the necessity of first requesting a ruling from this office in the following circumstances:

(P5 of 95)

1. the department makes a good faith determination that the information at issue relates to the detection, investigation, or prosecution of crime, and the release of the information would interfere with the detection, investigation, or prosecution of an open or pending criminal matter;
2. the department will release at least the basic information about an arrested person, an arrest, or a crime (the "releasable information") from the requested information;
3. the department will produce the releasable information to the requestor pursuant to the requirements of the Act within five business days after the date the request for information was received;
4. the department will provide the requestor with the notice included in Appendix A of this ruling when the department responds to the request pursuant to the requirements of this previous determination; and
5. the department has not previously received a request for the same information from the same requestor after the department has provided the requestor with the releasable information.

See Gov't Code § 552.011. If any of the above circumstances change—or any other law, facts, or circumstances involving the requestor or the status of the requested information changes—the department may not rely upon this ruling as a previous determination to withhold the information at issue. *See* ORD 673 at 7. Additionally, the department may not rely on this previous determination in response to requests in which basic information is not responsive. For example, no basic information is at issue in a request for only a dashboard camera video recording or 9-1-1 call audio recording. Thus, the department may not rely upon this previous determination in response to those types of requests. Furthermore, this previous determination does not apply to situations in which other law may require some or all of the information at issue to be disclosed. *See, e.g.,* Crim. Proc. Code arts. 2.139 (detailing right of access to videos made in connection with various types of driving while intoxicated offenses), 2.29 (detailing right of access to written report to law enforcement agency of alleged violation of Penal Code section 32.51); Gov't Code §§ 411.081-.1410 (detailing rights of access to criminal history record information), 560.002(1)(A) (detailing rights of access to fingerprints and other biometric identifiers); Transp. Code §§ 550.065 (detailing rights of access to crash report forms), 724.018 (detailing right of access to blood or breath specimen analysis results). We also note this previous determination does not permit the disclosure of basic information in those instances in which the entirety of the information at issue must be withheld. *See, e.g.,* Fam. Code §§ 58.007 (detailing circumstances under which certain information related to juvenile offenders must be withheld in its entirety), 261.201 (detailing circumstances under which certain information related to investigations of child abuse or neglect must be withheld in its entirety); Open Records Decision No. 393 (1983) (stating, because the identifying information of a sexual assault

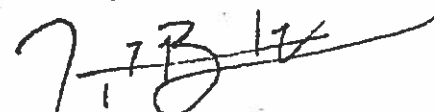
(P7)

victim was inextricably intertwined with other releasable information, the governmental body was required to withhold the information in its entirety). We further note this previous determination does not permit the department to withhold citations; DIC-24 statutory warnings; DIC-25 notices of suspension; criminal trespass warnings; notices of code violations; triplicate forms; or information subject to section 552.007 or section 552.022 of the Government Code, other than information subject to section 552.022(a)(1). See Gov't Code §§ 552.007, .022(a)(1)-(18), .108(a)(1). However, the use of this previous determination does not preclude the department from withholding information pursuant to other statutory authority or previous determinations that apply to the department. See, e.g., *id.* §§ 552.1175(f), .130(c), .136(c), .147(b); ORD 684.

If the department's use of this previous determination does not fall within all of the circumstances delineated above, the requirements of the Act apply, including section 552.301 of the Government Code, and deadlines under the Act run from the date the department received the initial written request for information. See Gov't Code § 552.301(a); *Mattox*, 767 S.W.2d at 698. Consequently, misapplication of this previous determination may result in the presumption the requested information is public. See Gov't Code § 552.302. Thus, if the department is unsure as to the applicability of this previous determination to information responsive to a request for information, the department should request a ruling from this office. Additionally, this office may modify or withdraw this previous determination for any reason, including, but not limited to, misapplication of this previous determination. See *id.* § 552.011; *Mattox*, 767 S.W.2d at 698; see also Open Records Decision Nos. 485 at 3 (1987), 673 at 5. Finally, if the department later requests a ruling from this office in response to a second request for the same information from the same requestor, the department should notify this office it relied upon this previous determination in its response to the initial request.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/orl/ruling/info.shtml>, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

(P7 of 95)

(88)

Incident Date: 01/08/17
Location: Maiden Ln +
Guadalupe

OPEN RECORDS REQUEST

Incident Type: Pedestrian
Stop

Date of Request: 3/31/17

Approximate time: Late
evening

I hereby request the full report for incident no. CAD# 170081471 that occurred
on 01/08/17.

Name: Carlos León

RECD BY

AP7363

3/31 C

14:23

Mailing Address:

Email:

Phone No:

Fax No:

- REFUSED TO GIVE
ADDRESS & PHONE #

I would like my report to be:

mailed
faxed
picked up

☐
☐
☒

by me, in person only

Signature: Carlos León

Additional Comments:

In addition to the full report required by Texas
Code of Criminal Procedure 2.133 (b), I request
the dashboard camera video from Officer McCoy's (#7553)
vehicle showing the entire Pedestrian crossing of Guadalupe that

NOTE: Requested information cannot be emailed.

She claimed, on record
to have seen ...



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

Exhibit I

June 28, 2017

Ms. Cary Grace
Assistant City Attorney
Law Department
City of Austin
P.O. Box 1088
Austin, Texas 78767

OR2017-14425

Dear Ms. Grace:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 663838 (ORR# 04-07290).

The Austin Police Department (the "department") received a request for video recordings associated with a specified incident. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have considered the raised arguments and reviewed the submitted information.

Initially, we must address the procedural obligations of the department under the Act. Section 552.301 describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b), the governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(b). Further, pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a

signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e).

In this instance, you inform us the department received the requestor's initial request for the responsive information on March 31, 2017. You state you responded to the requestor within five business days in accordance with the previous determination this office granted the department in Open Records Letter No. 2016-10001 (2016). Open Records Letter No. 2016-10001 authorizes the department to withhold certain information from a requestor under section 552.108(a)(1) of the Government Code in specified circumstances without the necessity of first requesting a ruling from this office. We note, however, that previous determination states "the department may not rely on [Open Records Letter No. 2016-10001] in response to requests in which basic information is not responsive. For example, no basic information is at issue in a request for only a dashboard camera video recording or 9-1-1 call audio recording. Thus, the department may not rely upon this previous determination in response to those types of requests." Because the initial request sought only video recordings associated with a specified incident, no basic information was at issue in that request, and the department was not authorized to rely upon Open Records Letter No. 2016-10001 to withhold the information from the requestor under section 552.108 of the Government Code. Accordingly, the department was required to provide the information required by sections 552.301(b) and 552.301(e) within ten and fifteen business days of the initial request, respectively. Consequently, the department was required to provide the information required by section 552.301(b) by April 14, 2017, and the information required by section 552.301(e) by April 21, 2017. However, the envelope in which the department sent the information required by section 552.301(b) was postmarked April 20, 2017 and the envelope in which the department sent the information required by section 552.301(e) was postmarked April 25, 2017. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Accordingly, we conclude the department failed to comply with the procedural requirements mandated by section 552.301 of the Government Code in this case.

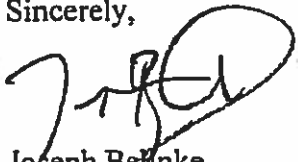
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision Nos. 319 (1982), 586 (1991), 630 (1994). Although the department claims section 552.108 of the Government Code for the submitted information, we find you have not established a compelling reason to address this exception. Consequently, the department

may not withhold any portion of the information at issue under section 552.108. Accordingly, as you raise no further exceptions to disclosure, the city must release the submitted information.¹

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Joseph Beinke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 663838

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the requestor has a right of access to some of the information being released in this instance. See Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).

(91 of 95)

(91)

Committee.

On May 26, 1994, the 45th District Court of Bexar County publicly reprimanded San Antonio attorney George A. Gonzalez, 45, for failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions in violation of DR 1.03(b). The State Bar was awarded \$321 in attorney's fees and costs and the respondent was ordered to pay \$1,250 in restitution.

The district 4-A Offense Committee publicly reprimanded Houston attorney Samuel Leon Childs, 44, for neglecting the complainant's case and failing to file suit on the complainant's behalf. Childs also failed to respond to a request for information from a disciplinary authority. His actions violated DRS 1.01(b)(1) and (2) and 8.01(b). Childs agreed to pay \$500 in attorney's fees to the Bar.

On May 20, 1994, the 131st District Court of Bear County publicly reprimanded Bear County attorney Wayne Crocker, A7, for failing to maintain client funds in his trust account in violation of DRs 1.14(a), (b), and (c). Crocker was ordered to pay \$300 in attorneys' fees to the State Bar.

OPINION 499

Question Presented:

Is it a violation of the Code of Professional Responsibility for an in-house lawyer for a government agency to knowingly misrepresent to an opposing attorney and an administrative law judge that a factual basis for jurisdiction of an administrative proceeding initiated by the agency does exist?

Statement of Facts:

A government agency initiates an administrative proceeding against a respondent. The respondent's attorney raises an affirmative defense that the proceeding was not commenced in accordance with law and regulation and requests the agency's in-house attorney to provide a delegation of authority to show that the proceeding was commenced by an agency representative with the authority to do so.

The government agency refused to provide a delegation of authority but through a supervising attorney directs its in-house attorney to represent in the proceedings.

PRIVATE REPRIMANDS

Listed below are the breakdowns of rule violations for 20 attorneys with the numbers of attorneys violating the rule in parentheses. Please note that an attorney may be reprimanded for more than one rule violation.

consider (1), (1)(b)(x) — neglecting a legal matter (one), 1.01(b)(2) — failing to carry out completely the obligations owed to a client (three), 1.02(a) — failing to abide by a client's decision (one), 1.03(a) — failing to keep a client reasonably informed about the status of a case (10), 1.03(b) — failing to explain the matter to the extent reasonably necessary to permit the client to make informed decisions (four), 1.06(b)(2) — representing a person when that representation appeared to be adversely limited by the

1.08(a)(1) — failing to disclose in a fair and reasonable manner a business transaction that could be reasonably understood by the client (one); 1.08(a)(2) — failing to give a client a reasonable opportunity to seek the advice of

ETHICS OPINIONS

jurisdiction exist. Based upon that representation, the administrative law judge denies the respondent's motion to dismiss for want of jurisdiction. After the hearing, a decision favorable to the government agency is made by the administrative law judge.

No delegation of authority relevant to the administrative proceeding in question had been issued. The supervising attorney knew, or reasonably could have known, that no delegation of authority existed when he directed the in-house attorney to represent that a factual basis for jurisdiction existed.

Later, the respondent's attorney claims that a delegation of authority did not exist. An employee of the same government agency then issues a delegation of authority, retroactively effective for the preceding five and one half years.

The inquiry to the Professional Ethics Committee states that without a delegation of authority there would have been no basis for jurisdiction by an administrative law judge. The committee makes no determination of the validity of that statement but assumes it to be correct. Both the in-house and-

independent counsel in a case, 1,086(x3) – entering into a relationship with a client without the consent (once); 1,083(x) – treatment prospectively; finding the ability to attend (once); 1,140(x) promptly notify and deliver (1,140) – failing to hold funds, which the lawyer and another shared, until an accounting had occurred (once); 1,150(x) – failing to take steps to protect the client's interests (once); 533(x) properly supervise a nonlawyer (two); 7,016(x3) – failing to disavow statements that he or she is not a lawyer; 7,017(x) – failing to disclose the attorney's relationship with the attorney's subordinate (once); 8,01(x) – knowingly correspond to a level of demand for a disciplinary authority (two);

REINSTATEMENT

Robert A. Moore, 51, of Odessa, applied for reinstatement as a member of the State Bar of Texas.

Questions:

- Question:** Does an in-house attorney represent the government agency without an disciplinary rule if he or she represents to an opposing attorney an administrative law judge, a federal basis for jurisdiction when he or she knows it does not exist?
- Answer:** Does a supervising attorney violate any disciplinary rule if he solicits a subordinate attorney to represent to an opposing attorney and an administrative law judge that a federal basis for jurisdiction exists when he or she knows it does not exist?
- Does an in-house attorney represent the government agency without any disciplinary rule by representing to an opposing attorney and an administrative law judge that a federal basis for jurisdiction exists when he or she has a reasonable belief that jurisdiction does exist?**
- Discussion:**
- An attorney's representation to a federal basis for jurisdiction is an administrative law judge that a federal basis for jurisdiction exists if the attorney knows it does not exist.

vident: "(a) A lawyer shall not knowingly: (1) make a false statement of fact to a tribunal; (2) fail to disclose to a tribunal all material and pertinent facts that a lawyer reasonably should know; and (3) fail to advise a tribunal when discovery is sought to avoid assisting a criminal act."

ordinarily, if no jurisdiction existed, the lawyer would be deemed to have violated DR 4.01 (pertaining to his opposing attorney's jurisdiction). If jurisdiction existed, DR 4.01 presumably would not apply.

Managing Partner Workloads Increase

Managing Partner Workloads Increase

Managing partners in medium and large U.S. law firms are spending more of their time in management than in 1992 (55 percent versus 47 percent), and less time doing billable work (30 percent versus 40 percent) in 1992. Billable hours are down 19 percent from 1992 (871 hours in 1993). These findings are reported in the 1994 Survey of Law Firm Managing Partners and Chief Financial Officers, recently released by Altman Weil Pensis, Inc., management consultants in Newtown Square, PA. Survey participants include legal executives in firms of all size from 50 to hundreds of lawyers. Data is broken down by firm size.

Other findings of interest include:

- Managing partner compensation is almost exactly 150 percent of average partner compensation.
- Managing partners in large firms (more than 176 lawyers) average \$426,000 in total compensation.
- The typical managing partner has been with the firm 21.9 years and is elected by the partnership (rather than a committee) to a fixed term averaging 2.8 years.
- Managing partners average 2.7 days of vacation per year.
- The Survey reports on tenure, compensation, benefits, repurchase possibilities, time expenditure relationships, and management training of legal executives. It also includes narrative comments from participants on each of these issues.

The survey results are available for \$175 from Altman Weil Pensis. For more information call 610/355-9999.

act or knowingly assisting a fraudulent act perpetrated by a client."

If the supervising attorney, or the government agency's in-house lawyer, knew that no basis for jurisdiction existed and yet directed the in-house lawyer to represent to the opposing attorney and the administrator the law judge that jurisdiction existed, the supervising attorney violated DR 5.01(b) and DR 5.02(b). The lawyer is subject to discipline because of another lawyer's violation of these rules of professional conduct if: (a) The lawyer is a partner or supervising lawyer and orders, encourages or knowingly permits the conduct; involves or (b) The lawyer has direct supervisory authority over the other lawyer, and with knowledge of the other lawyer's violation of these rules knowingly fails to take reasonable remedial action to avoid or minimize the consequences of the other

If the agency's in-house attorney did not know the misrepresentation was false when made but later discovered that his statement was untrue, he has a duty to make reasonable efforts to persuade his client (the government agency) to take

presentation was false when made out and learned it to be untrue.

Conclusion:
Disciplinary Rule 3.01, 3.03, and 4.01 would be violated if the in-house attorney knew that no factual basis for jurisdiction existed at the time he represented to the opposing attorney and the administrator that jurisdiction existed.
DR 3.01 would be violated if the in-house attorney did not have a reasonable basis for believing that jurisdiction existed when he represented that it did.
DR 5.01 would be violated if the supervising attorney ordered, encouraged, or knowingly permitted the in-house attorney to make false statements to the opposing attorney or the administrator, or if he failed to take reasonable remedial action to avoid or mitigate the adverse effects of the in-house

DR 1.02 would be violated if the house lawyer failed to take reasonable efforts to persuade his client (the government agency) to take corrective action he reasonably believed at the time made them that his statements to

THEY ARE THE ONLY
opposing attorney and the administrator
law judge were not but later learned
they were not true.

**MEDICAL/DENTAL
MALPRACTICE EXPERTS**

11-7-01 01-277

CONSULTING EXPERTS
TO THE MEDICAL, DENTAL COMMUNITY

★ GRANTS : Medical Team Review
and Written Findings
★ GRANTS : Conference and Reports
to Your Office
★ GRANTS : Written Reports if
Case Has No Fault

STAT ATTORNEYS AVAILABLE

Full Expert Witness Service to Over
REPEAT FIRMS. We Have Earned
Reputation Proudly for Plaintiff & De
fense. We Do Not Shrink Out of Law
Types Who Are Weak and Vulnerable
Infirmity. Our Base Fee is \$275.

Health Care Auditors, I

Feather Sound Corporate Center, Building
1357, Feather Sound Drive, Trumbull, CT
06620. Fax: 203/792-9152
Cellular: 203/682-2512

Telephone (813) 579-8055
Telex: 579-8055
Telecopier (813) 573-1333

We are pleased to receive your call.

Exhibit K

93

AUSTIN POLICE DEPARTMENT
CAD CALL HARDCOPY

CP 2017-81471

Reported: Jan-08-2017 22:21:10

Incident Location

Address : W 35TH ST / GUADALUPE ST
City : AUSTIN County : TRAVIS COUNTY
District : BA Beat : 1 Grid : 346

General Information

Report number: 2017-81471
Case Type : Subject Stop Priority : 3
Dispatch : Jan-08-2017 22:21:10
Enroute : Jan-08-2017 22:21:10
At Scene : Jan-08-2017 22:21:10
Cleared : Jan-08-2017 22:57:06
Unit ids : #1 - B606 #2 - B805 #3 - B802
Call taker ID : AP8165 ATHEY, MELISSA

Complainant Information

Remarks :
Jan-08-2017 22:21:10 - Complainant:

Clearance Information

Final Case type : SUB
Cleared by : 10/8 FROM A CALL/TRAFFIC

Dispatch Details

Unit number : B805 Dispatched: Jan-08-2017 22:21:10
Officer 1 : AP7553 - MCCOY, MONIKA
Enroute : Jan-08-2017 22:21:10
At scene: Jan-08-2017 22:21:10
Cleared : Jan-08-2017 22:57:06

Unit number : B606 Dispatched: Jan-08-2017 22:21:16
Officer 1 : AP7873 - BERTELSON, JACLYN
Enroute : Jan-08-2017 22:21:16
Cleared : Jan-08-2017 22:21:55

Unit number : B802 Dispatched: Jan-08-2017 22:21:57
Officer 1 : AP6114 - RIDGE, MICHAEL
At scene: Jan-08-2017 22:21:57
Cleared : Jan-08-2017 22:50:08

Related text page(s)

Document: COMPLAINT COMMENT
Author: AP8165 - ATHEY, MELISSA
Subject: CAD Complaint Comments
Related date/time: Jan-08-2017 ****

01/08/2017 22:21:10SYS MULTIPLE RESPONSE AREAS FOUND. RESPONSE AREA CHOICES:

(93 of 95)

94

AUSTIN POLICE DEPARTMENT
CAD CALL HARDCOPY

CP 2017-81471

Reported: Jan-08-2017 22:21:10

BAKER 2, BAKER 1

01/08/2017 22:21:17AP8165 BACKED UP B805 WITH B606

01/08/2017 22:21:58AP8165 BACKED UP B805 WITH B802

01/08/2017 22:25:18AP8165 [QUERY] B805, NAME/DOB CHECK:

TX, LEON, CARLOS, 01281970, M, U, 1

01/08/2017 22:25:55AP8165 [TLETS]: 12093867 -

TX, LEON, CARLOS, 01281970, M, U, 1 [TLETS]: RESULTS FOR TTPERSON CHECK QUERY

PERFORMED BY MCCOY, MONIKA FOR UNIT B805 ASX1.20163.MAR0977. 8206328

KR.TXOLN0000.ASX1. TXT SEARCH ON LEON, CARLOS, 19700128 NAME: LEON, CARLOS,

ALEJANDRO DESCRIPTION: OTHER MALE 01281970 5-06 150 BROWN HAZEL SEX OFF: N COMM

IMPED: N ORGAN DONOR: N VISA EXP: PHYSICAL ADD: 5112 S 1ST ST #220 CI/CO/ST/ZIP:

AUSTIN, TRAVIS, TEXAS, 78745, UNITED STATES MAILING ADD: 5112 S 1ST ST #220

CI/ST/ZIP: AUSTIN, TEXAS, 78745, UNITED STATES REC STATUS: ELIGIBLE ADMIN STATUS:

CARD STATUS: HME THR ASMT: EXP: CARD TYPE: DL #:

34830474 CLASS: C TYPE: DL EXPIR DATE: 01282018 RESTRICTIONS: A WITH CORRECTIVE.

LENSES ENDORSEMENTS: **** DRIVER RECORD INFORMATION IS PERSONAL INFORMATION

PROTECTED UNDER THE FEDERAL DRIVER PRIVACY ACT OF 1994 (18 USC 2721, ET SEQ.) AS

AMENDED AND THE MOTOR VEHICLE RECORDS DISCLOSURE ACT, TEXAS TRANSPORTATION CODE

730 ***** END OF RECORD***** MRI: 8206328 IN: NDLS 72711 AT

08JAN2017 22:25:19 OUT: ASX1 16887 AT 08JAN2017 22:25:19

01/08/2017 22:28:45B805 PERSON: LEON, CARLOS ALEJANDRO SCORE: DOB: JAN-28-1970

APP. AGE: 46 SEX: MALE RACE: WHITE ADDRESS: TRANSIENT APT.:

220 CITY: AUSTIN STATE: TEXAS ZIP: 99999- LICENSE #: 34830474 STATE OF ISSUE: TX

OCCUPATION: NONE ETHNICITY: NOT-HISPANIC OR LATINO COMPLEXION: BUILD: HEIGHT:

5'06 FT WEIGHT: 150 LBS EYE COLOR: HAZEL LENS TYPE: HAIR COLOR: BALD (III

RECORDS ONLY)

01/08/2017 22:53:33B805 ISSUED TICKET #14199822 (PED CROSSING MIDBLOCK)

Unit/Officer Details

** END OF HARDCOPY **

Exhibit 4

13

700 East 7th Street

P.O. Box 2135 Austin, Texas 78768-2135

(512) 974-4800

www.austintexas.gov

State of Texas vs.

Carlos Lean

Cause No.

8560652

Offense:

Jury Waiver: I waive my right to trial by jury and plead Not Guilty to the Court.

Date: Signature:

NOTICE: Renewal of Defendant's driver's license may be suspended for failure to appear at court and/or failure to pay a judgment in the case. In order to clear any such suspension Defendant is required to pay the Clerk a \$30 administrative fee in addition to any judgment in the case.

Judgment

On this, the _____ at the required time of this court, came the described cause to be heard and the Defendant:

Having been informed of his right to trial entered his/her appearance and waived said right to trial by pleading

(No Contest), (Not Guilty),

Was present in court and, having waived a jury, announced ready for trial, and entered a plea of not guilty in open court.

And after hearing the evidence and argument, and after due consideration of the same, the court finds the Defendant

(Guilty), (Not Guilty),

of the offense in the complaint in this case.

It is therefore ordered and adjudged by the court that the State of Texas for the benefit of the City of Austin, Texas, do have and recover of the Defendant the sum of \$ _____ as the fine assessed and costs in this case. If paid after 30 days, the total due is the sum amount plus \$25.

The Court finds that the period which will satisfy the fine and costs is 24 or _____ hours.

Judge, Municipal Court, City of Austin, Texas

Hearing as to Indigency:

Finding: [] Indigent [] Not Indigent

Plea of No Contest: I, hereby enter my appearance for the offense charged in the above-referenced cause, waive my right to a trial by Jury or Judge, plead no contest to the offense alleged by the citation and/or complaint in this cause, and agree to satisfy the penalty assessed by the Court.

Signature: _____ Date: _____

Atty/Parent: _____ Date: _____

Address: _____

FURTHER ORDERS:

- ___ DSC Mandatory
- ___ Deferred Disposition
Proof of completion by: _____
- ___ Post Fee, bond, or make payment of \$ _____ by _____
- ___ Extension to pay \$ _____ monthly/weekly
until balance is paid, start payment _____
- ___ Community Service: _____ hours to be done at any place on the adult/youth list of CSR providers or at any other non-profit agency doing non-religious, non-political work.
- ___ Turn in proof of _____ hours by _____
- ___ Jail Credit: _____
- Total layout credit/Time Served:
Concurrent Consecutive

NOTES:

Address Notification for Minors:

You and your parent, or guardian are required by law to provide the court with writing your current address and residence. If your place of residence changes, you have 7 days to notify the court in writing of your new address and residence. Failure to keep the court informed of your new residence may result in Failure to Appear and Failure to Notify charges filed against you, your parent or guardian. The obligation of keeping the court informed of your current address and residence is required until your case is finalized/terminated.

State's Motion to Dismiss:

Date 4/27/17 IE NPO NPO2 IEO IEO2 PB

Other: _____

Assistant City Attorney: _____

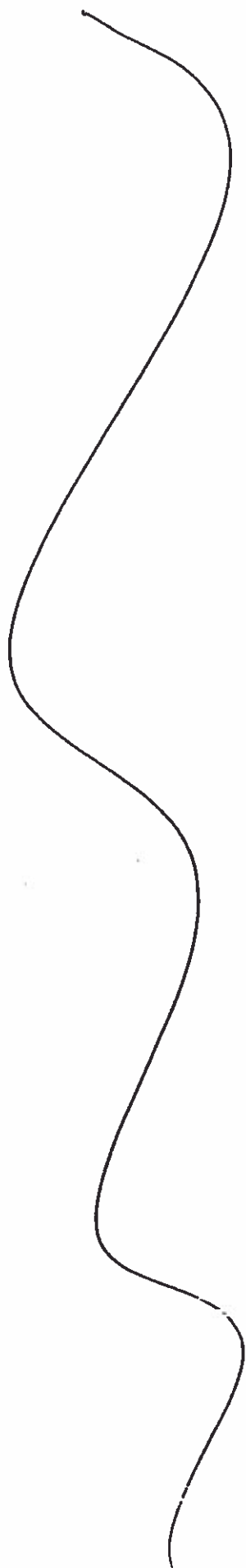
Order of Dismissal

On this 4/27/17 the motion of the STATE is hereby granted and the charge in this cause is ordered DISMISSED.

Judge - Municipal Court, City of Austin, Texas

Judge: Solomon

195 of 951



~~Recall~~ Claudia → 10:10 AM
CDC