

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**RECEIVED**

JUN 25 2013  
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WESTERN DISTRICT OF TEXAS  
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**JOHN EDWARD FODDRILL SR**

**Plaintiff**

v.

**MICHAEL D. BERNARD, individually and  
In his official capacity as San Antonio City  
Attorney, WILLIAM P. McMANUS,  
individually and in his official capacity as  
San Antonio Police Chief and the  
CITY OF SAN ANTONIO**

**Defendants**

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**NO. 5:13-CV-00051**

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**PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS EVIDENCE**

**TO THE HONORABLE UNITED STATES DISTRICT COURT:**

**COMES NOW the Plaintiff, John Edward Foddrill Sr., and makes this reply to Defendants Motion to Dismiss Evidence, again asks that his cause be left intact and again asks that the Court not assist the defendants in their criminal endeavors.**

- 1. The Plaintiff met the standards set by the Defendant in the submission of attachments when responding to motions presented by the Defendants. In their original response to the Plaintiff's complaint the Defendants attached a copy of something copied from an on-line comment board . Plaintiff's attachments are just as admissible as evidence as something copied from a comment board on the Internet. The Plaintiff should not be held to a higher standard than the Defendants.**
  
- 2. The Defendant's motion to ignore all the Plaintiff's attachments is simply an extension of the ongoing efforts to conceal the criminal conspiracy that the Defendants and their law firm Fitzpatrick & Kosanovich are party to. The law firm of Fitzpatrick & Kosanovich helped the Defendants hide criminal activity inside the City for**

years and then helped defraud our judicial system in February 2009 . When proof of the criminal conspiracy was delivered to law enforcement and elected officials in June 2009 the Defendants issued an illegal, unconstitutional Criminal Trespass Warning, confiscated all the evidence, swore everyone to secrecy and covered up their crimes. Now the same law firm – Fitzpatrick & Kosanovich - comes to the Court asking that they be assisted in their efforts to keep the criminal conspiracy a secret and to deny the Plaintiff his day in Court. The Court cannot be part of this criminal scheme.

3. The Plaintiff asks that the fact that he is filing documents pro-se be taken into consideration. The Plaintiff offers to make the documentation more acceptable to the Court if he can be provided with guidance concerning the Court's wishes. The Plaintiff resubmits exhibits 3,4,6,7,9,10,12,15,18 and 24 with the proper signatures. The Plaintiff attaches the Courtroom Testimony of Richard Varn and the Oral Deposition of Richard Varn to supplement reports 1 and 2 with authentic, verifiable sources. The Plaintiff makes the following statements concerning specific objections lodged by the Defendants.

Exhibit Number 1. The Cuellar Order is relevant as the Defendants lifted the illegal, unconstitutional ban issued to the Plaintiff within days of the order and in response to the order. The Order applies to the ban imposed on the Plaintiff as the Defendants failed to meet the standards set out in the Order in regard to providing the Plaintiff a due process hearing or the fact that the Plaintiff was banned when there was no police report or any disturbance.

Exhibit Number 2. This exhibit is a copy of a San Antonio Police report supporting statements by the Plaintiff that SAPD officers were dispatched to his home on the night of July 4, 2011- Independence Day to perform a mental health examination using the "color of the law" to intimidate and silence him in spite of the fact that the Plaintiff had not violated any laws, had threatened no one and was at home in bed at the time of the dispatch. . The report shows that efforts to label the Plaintiff "insane" or "dangerous" thus justifying the unconstitutional ban were thwarted. The report details how the Plaintiff reported criminal acts committed by City employees/officials and the officers deemed the Plaintiff as "credible" and noted that documentation was evident supporting the allegations. The report also states

that the Plaintiff “ did not display any signs of mental illness, nor was he a danger to himself or others”. The documents show that SAPD officers filed a report stating that the Plaintiff was not a danger BUT the Defendants refused to lift the unconstitutional ban for another two years. The document is relevant and needs no authentication.

Exhibit Number 3. This document is a copy of a report provided to the Defendants concerning terroristic threats made by supporters of Councilman Diego M Bernal. The document memorializes the creation of at least two police reports by SAPD concerning the phone and internet threats. The report memorializes a videotaped “ Citizens to Be Heard” session where City Council was informed of the terroristic threats and the failure of SAPD to investigate and prosecute the crimes. The report is on file with the City and SAPD. The video is posted on the Internet.

Exhibits Number 4 and 5. These documents support the Plaintiff’s statements of due diligence and are relevant. The documents support the Plaintiff’s statements of Equitable Tolling.

Exhibit Number 6. Plaintiff submitted only the relevant portion of the document in an effort to save the Court time and effort. Plaintiff now submits the entire document. The document supports the Plaintiff’s statement concerning Equitable Tolling as the document shows that Plaintiff’s attorney – Edward Pina- co-authored a report with the Texas Civil Rights Project that stated “ SAPD’s current police chief, William McManus, has made efforts to move the department in the right direction by listening to citizens’ concerns and pushing for changes.” AFTER being retained by the Plaintiff and having reviewed documented proof of the CTW, the middle of the night SAPD raid, the ongoing criminal conspiracy to hide decades of fraud and theft ( including the fraud committed against the US Government), etc. The report contains no mention of the criminal conspiracy that Chief William McManus is party to, the CTW, the middle of the night raid or other relevant facts that Pina was aware of when the report was issued. The document is relevant and supports the Plaintiff’s claims of Equitable Tolling.

Exhibit Number 7. This document supports Plaintiff’s claims concerning his due diligence, his claims of “unclean hands” and his claims of Equitable Tolling . The certified letter proves that attorneys Pina, Goodman, Gaul and

Willborn along with Judge Antonia Arteaga were again asked to follow the law and report the criminal conspiracy.

The document is relevant.

Exhibit Number 8. This letter from Plaintiff's attorney Edward Pina to Defendant Michael Bernard supports the Plaintiff's complaint of Estoppel when Defendant Bernard on September 13, 2010 in a meeting with Plaintiff's attorney falsely stated that he would withdraw the CTW and would lift all prohibitions as the ban and prohibitions remained in effect for another twenty-nine months. Defendant Bernard lied and this lie and other dishonest acts by the Defendants are central to this case making this document relevant. Defendants' attorney's efforts to minimize the importance of this document and his efforts to have the document ignored are simply a continuation of his efforts to hide the dishonest, illegal acts of the Defendants but now asks the Court to assist with the ongoing illegal cover-up. The Court must not assist in the efforts to hide the dishonest, illegal acts of the Defendants.

Exhibit Number 9. This certified letter supports the Plaintiff's contention of "Capable of Repetition" claims. City officials continue to ignore all correspondence as they have since July 1, 2009 when the CTW was issued and instructions by the Defendants were issued to ignore ALL reports of the criminal conspiracy by ALL citizens. City officials refuse to hold the Defendants accountable for their illegal, unconstitutional acts. There is nothing standing in the way of bans being issued to whistleblowers in the future.

Exhibit Number 10. This certified letter supports the Plaintiff's contention of "Capable of Repetition" claims. Councilman Cris Medina continues to ignore all correspondence with citizens concerning the underlying criminal conspiracy by the Defendants. There is nothing standing in the way of bans being issued to whistleblowers in the future.

Exhibit Number 11 and 12. The documents include a signed, notarized affidavit sent via certified mail to Texas Attorney General Abbott and Bexar County DA Susan Reed supporting the Plaintiff's claims of "Capable of Repetition" and "Unclean Hands". The documents are relevant and show that the Defendants AND their attorneys

Fitzpatrick & Kosanovich have “unclean hands” and that there is nothing barring them from issuing another ban if they so wish when the Plaintiff or another citizen again reports the criminal acts of the Defendants.

Exhibit Number 13. This signed official letter from the Attorney General’s Office supports the Plaintiff’s claims that there is nothing prohibiting the Defendants from again issuing an unconstitutional CTW to another Whistleblower. The letter details how Bexar County DA Susan Reed is refusing to follow the law and prosecute the defendants for their criminal acts including the act of using a CTW to mask their illegal acts. DA Susan Reed refuses to investigate and prosecute her former ADA- now City attorney Bernard – so there is nothing standing in his way of again using the power of his office and the “color of the law” to violate the Constitutional rights of the Plaintiff or any other law-abiding citizen. The document is relevant and requires no authentication.

Exhibit Number 14. The signed official letter from the Securities and Exchange Commission assigns reference number FWRO 302038 to a complaint of bond fraud by the Defendants . The document supports the Plaintiff’s claims of “ unclean hands” by the Defendants and their attorneys Fitzpatrick& Kosanovich.

Exhibit Number 15-17 These documents support the Plaintiff’s claims of “ unclean hands” on the part of the Defendants and their attorneys Fitzpatrick& Kosanovich. The law firm of Fitzpatrick& Kosanovich assisted the Defendant Bernard present a “fraud upon the court” in February 2009 in an effort to hide three decades of fraud and theft. The Defendants issued the unconstitutional CTW on July 1, 2009 in an effort to conceal their crimes. After numerous requests for meetings and a full investigation FBI agent Brown published a fraudulent statement that three separate meetings had occurred and that nothing illegal was found. Since 2009 the FBI has been unable to produce one shred of evidence concerning the “ghost” meetings BUT continually refuses to hold agent Brown accountable for his false statements hindering an investigation into three decades of criminal activity including crimes against the US Government. The documents show that as of February 11, 2013 the FBI was still looking for any evidence of the “ghost” meetings.

Exhibit Number 18-19. These documents support the Plaintiff's claims of "Capable of Repetition" and "unclean hands". With the Texas Department of Public Safety and City Council members looking away there is nothing stopping the Defendants from again issuing a CTW to the Plaintiff or another law-abiding citizen.

Exhibit Number 21-24. These documents support the Plaintiff's claims of "unclean hands" on the part of the Defendants and their attorneys Fitzpatrick & Kosanovich. The excerpt from a City Audit is "bates stamped" showing that it was part of discovery in the February 2009 lawsuit where the Defendants and their attorneys Fitzpatrick & Kosanovich defrauded the Court. The document shows that a no-bid contract was illegally steered to SanTel and that taxpayers were defrauded of \$10,800 – a crime. The documents show that City IT Manager Deborah Segovia signed an affidavit falsely stating that no violations of law were found in the audit. The documents show that two separate police reports were issued on June 24, 2009 reporting the criminal conspiracy to hide the criminal activity including the theft of public funds and the illegal no-bid contracts. What the documents do not reveal is the fact that Defendants attorneys Fitzpatrick & Kosanovich illegally coached city IT Manager Segovia to present known false testimony to the Courts in February 2009. The documents are relevant. The police reports and affidavit require no authentication.

Exhibit Number 24 This document is a signed complaint affidavit detailing the names of all the persons who defrauded the Court in February 2009. Defendant's attorney Mark Kosanovich is listed along with city attorney Deborah Klein who is employed by Defendant Bernard. The affidavit also lists City CIO Richard Varn. Varn's deposition and courtroom testimony shows that Defendant's attorney Kosanovich illegally coached Varn to present a fabricated testimony to the Court in February 2009. The law firm of Fitzpatrick & Kosanovich now asks the Court to help them hide the proof of their crimes. "Unclean Hands", "unclean hands" "unclean hands".

Report 1 . The report supports the Plaintiff's claim of "unclean hands" proving the fact that the Defendants and their attorneys Fitzpatrick & Kosanovich defrauded the Court and hid criminal activity. The report focuses on the fabricated, false testimony of City CIO Richard Varn who with the illegal coaching of City Attorney Deborah Klein, attorney Mark Kosanovich (Fitzpatrick & Kosanovich ) and City IT Director Hugh Miller presented a " fairy tale", a

“novella”, a “skit” concocted by the law firm of Fitzpatrick & Kosanovich and Defendant Bernard to defraud the Court and hide decades of criminal activity. Varn, city attorney Klein, attorney Mark Kosanovich (Fitzpatrick & Kosanovich) and IT Manager Hugh Miller laid the groundwork for the “fraud upon the court” and numerous other city witnesses under the expert BUT illegal coaching of the attorneys present in the courtroom told their false testimony contributing to the “novella”.

Excerpt of report 1.....City of San Antonio, Texas' Chief Information Officer Richard J. H. Varn testified under oath in a court of law that in 2005 he understood the internal billing account commonly referred to as the telephone “variable”, investigated the use of the account, found that the “variable” was created to help balance the budget / make requests for additional funds/pay for pop-up expenses/make adjustments to the budget, contacted Washington and found that there was no grant fraud and found nothing illegal concerning the use of the “variable”.

Page 23 line # 10 Varn states “They had to have some way of balancing their budget and serving their needs. They had something called...some kind of variable in the telephone system.

Page 25 lines 22-25 Varn states “Well, I want to be very specific, and there’s nothing illegal about it. It does not violate any city policies, rules, or ordinance. It doesn’t violate Texas law.”

Page # 41 line # 17 Varn replies “I understood the telecom variable cause that’s the one that seemed to be the largest one that was used to adjust the budgets”.

Page #45 line # 14 Varn again broke in replying- “I have actually visited with a number of federal officials in Washington asking them about...”

With his fabricated testimony and false statements CIO Richard J. H. Varn of Des Moines, Iowa ( yes, he resides in Iowa) set the stage to facilitate the presentation of a fraud upon the court inside the Bexar County Courthouse in the case of Foddrill v City of San Antonio -2006 CI 06702- in February 2009. Varn told the critical lies used to hide decades of criminal activity including but not limited to theft of public funds, State and Federal grant fraud, falsification of government documents, threats to keep quiet, retaliation and aggravated perjury inside the City’s IT Department and with the assistance of City Attorney Deborah Klein and other city witnesses presented a work of fiction- a total fabrication- to the court- and to our citizens.

**BUT**

In direct contradiction to Varn’s fabricated testimony under oath in court his sworn deposition of August 15, 2007 **(that was intentionally concealed from the court)**, official city documents, sworn statements and other evidence

prove that Varn, Klein and others conspired to present a fraud upon the court in an effort to hide violations of law committed by city employees and others. The subornation of perjury by an attorney and/or the intentional concealment of documents by an attorney are actions which constitute extrinsic fraud and directly contributed to a "grave miscarriage of justice" inside the Bexar County Courtroom of Judge Antonia Arteaga.

Excerpts from Varn's August 15, 2007 deposition follow:

When questioned about how city departments obtained more money if they ran out of funds Varn responded that he didn't know how that worked as follows.

Page # 12 line # 9 - Question - "During the 2005 time period that you were employed by the City, if a department was allocated money under the budget and ran out of money, what was the process for obtaining more money during the budget year?"

Page # 12 line # 13 - Varn replies - "Gosh, I'm not really sure how that worked.... I don't really know how a department requested something to be changed about their allocation for money in their budget".

When questioned about the telephone "variable" billing account he admitted that he didn't even recognize the term and knew nothing of any such account as follows.

Page # 38 line # 17 - Question - "have you ever heard of an account in that telecommunications department that was called the variable account

Page # 38 line # 20 - Varn asks - "Variable"

Page # 38 line # 21 - Attorney Gaul reiterates- "Variable"

Page # 38 line # 22 - Varn replies- "No. Were there any other names for it?"

Page # 23 Line # 23 - Gaul states- "No. That's the only one we've had it called so far".

Page # 38 line # 25 - Varn states - I DON'T KNOW WHAT THAT IS".

Page # 39 line # 8 - Varn goes on to say "IF THERE'S AN ACCOUNT THAT GOES TO COVER THAT, I'M NOT... I DON'T KNOW THAT THERE'S A SEPARATE ACCOUNT. I DON'T HAVE KNOWLEDGE OF THAT."

Page # 39 line # 20 - Varn again states "IF THERE'S AN ACCOUNT FOR THAT, I JUST DON'T KNOW".



When deposed in August 2007 Chief Information Officer Richard Varn admitted that he knew nothing about the telephone "variable" account, didn't recognize the term "variable" and did not know how city departments received funding if their money ran out. Varn knew nothing of the "variable" - PERIOD.

BUT... In 2009 with the illegal coaching of City attorney Klein, attorney Mark Kosanovich ( Fitzpatrick & Kosanovich ) and IT Director Hugh Miller Richard Varn presented his well-rehearsed fabricated testimony stating that in 2005 he understood the variable, investigated the variable, contacted Washington DC, found nothing illegal, found that the variable was designed to help balance the budget/pay for pop-up costs/etc. and that anyone could make a case to the IT department and walk out with all the money they needed with no public input, no competitive bidding, no Council meeting, no city ordinance, no vote, etc. "Unclean Hands" "Unclean Hands" "Unclean Hands"

**Report 2.** The report supports the Plaintiff's claim of "unclean hands" proving the fact that the Defendants and their attorneys Fitzpatrick & Kosanovich defrauded the Court and helped hide the theft of upwards of \$200,000 by City IT Manager Jose Medina and long-time city vendor Isabel Gonzaba ( IG Communications-Globalscope).

Excerpt of report 2 : A City IT Manager and a City vendor conspired to defraud the City, the State and the Federal government when they agreed to intentionally submit and approve false and fraudulent time sheets/invoices that reflected inflated work hours. The City IT Manager knowingly, willfully and feloniously approved the bogus time record submissions. The vendor received compensation for work not performed via theft from several sources including programs receiving federal funds. This scheme of aggravated theft of public funds by deception violated additional laws including but not limited to mail/ wire fraud. Numerous City employees engaged in a scheme to conceal material facts and conspired to conceal the theft of the funds. They engaged in organized criminal activity, published fraudulent audits/reports, retaliated against a whistleblower, presented perjured testimony and breached their fiduciary duty by doing much more than just turning a blind eye to the criminal activity when they actively conspired to conceal the crimes and conspired to block any attempts to expose the fraud and recover the pilfered funds. They became accessories after the fact and co-conspirators via their illegal actions.

In an email of April 5, 2002 the vendor provides a written summary of a prior conversation with the City IT Manager. The email provides details concerning the scheme to fraudulently receive payment based on over-inflated hours. The email describes the scheme to add 3.5 hours per week (at \$65/hr) for each of three (3) employees for the entire month resulting in a fraudulent submission of forty-two (42) hours not worked. The email details past charges for hours not worked - \$2730 - that had been submitted along with a total cost - \$3852.40 - after a mark-up by the company the

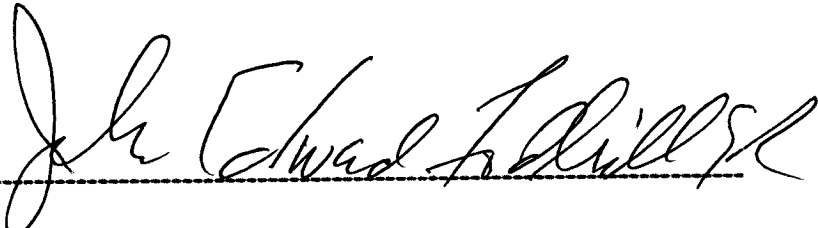
vendor worked for was added. The City IT Manager on April 16, 2002 replies to the April 5 email with the comment "Dividing this up works for me" when he approves the scheme to obtain money by fraud.

This illegal scheme resulted in the submission of illegal charges of about \$4000 a month for at least a four (4) year time frame. In an email of August 2005 the IT Manager admits that " I had thought that they had eliminated the charge" in and in an email of the same date the vendor admits that " IG charges rent to house them at 7400 Blanco Road" proving that the scheme was in full force in the second half of 2005. Closer examination may show that at least two (2) fraudulent invoices were submitted each month for each of the three (3) employees proving that at least six (6) fraudulent invoices were submitted every month since April 2002. It appears that the plan outlined in the April 2002 email was followed through at least 2005 and may have resulted in the theft of approximately \$170,000- \$190,000 or more from city and grant resources set aside by law for telecommunications support.

**Conclusion and Prayer**

For the reasons stated herein, Plaintiff again requests that the Court deny Defendants' Motion to Dismiss Plaintiffs' Original Complaint.

Respectfully submitted,

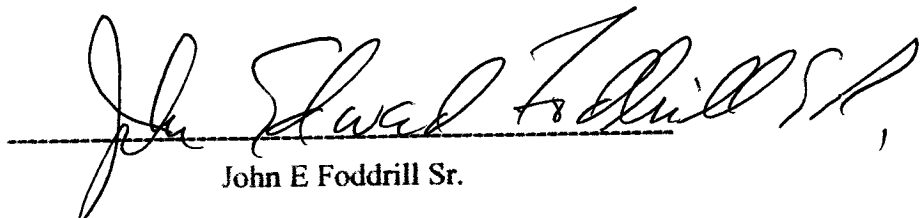


John Edward Foddrill Sr. (Pro Se)  
9650 Limestone Pond  
San Antonio TX 78254  
210-824-3502

**CERTIFICATE OF SERVICE**

I hereby certify that two copies of the foregoing response were hand delivered to the U.S. District Clerk's Office at 655 E. Cesar E. Chavez Blvd., Room G65 San Antonio, Texas 78206 and a single copy was mailed by certified U S Mail # 7010 3090 0002 7075 2029 on June 25, 2013 to:

Shawn Fitzpatrick  
Fitzpatrick & Kosanovich  
P O Box 831121  
San Antonio TX 78283-1121



John E Foddrill Sr.

**Attachments - resubmitted with signatures**

**Exhibit 3 – Report of Telephone and Internet Threats detailing two police reports**

**Exhibit 4 – Letter of 4/8/2013 to attorney Edward Pina**

**Exhibit 6 – TCRP report – Misconduct in San Antonio – 2011**

**Exhibit 7 – Letter of 1/22/2013 to attorneys Goodman, Pina, Willborn, Gaul and Judge Arteaga**

**Exhibit 9 – Letter of 4/22/2013 to City Clerk**

**Exhibit 10 – Letter of 5/29/2013 to Councilman Medina**

**Exhibit 12 – Letter of 5/14/2013 to AG Abbott and DA Reed**

**Exhibit 15 – Letter of 5//4/ 2013 to FBI SAC Fernandez**

**Exhibit 18 – Letter of 1/22/ 2013 to DPS Chief Denby**

**Exhibit 24 – Letter of 6/19/2009 and notarized affidavit to all**

**Attachments**

**Exhibit A – Reporter's record – Testimony of Richard Varn**

**Exhibit B – Oral Deposition of Richard Varn**

**EXHIBIT**

3

## Report of Telephone and Internet threats

Members of the hacker group Anonymous and Occupy San Antonio have made threats over the Internet and via telephone calls in an effort to stop law abiding citizens from reporting and exposing public and police corruption. The phone call originated in Nova Scotia, Canada and the written threats were posted on the Internet. Computer accounts have been attacked as well.

The person/persons who made the threatening phone call are unknown but Anonymous is implicated. Persons who made the Internet threats are members of Anonymous and Occupy San Antonio and some are Administrators for the groups' websites.

### Persons who made Internet threats:

Edd Aske  
Kevin Gonzales  
Raye Penber

### Persons of interest:

Meghan Owen  
A person going by the false name Serpentitis Kingsley  
Rebecca Coffey  
Rob Quijano  
Kassandra Allbright  
Joseph Blandford  
Rosa Martinez  
A person using the name Alyda Asmodeus  
San Antonio City Councilman Diego M. Bernal  
Others

On October 9, 2011 In an effort to help hide criminal activity inside our city/county government Occupy San Antonio "leaders" deleted all information detailing public/police corruption, banned me from the official website and stated that Councilman Bernal knows all about me and that law enforcement has records on me as a "local loon".

On October 12, 2011, my wife and I were awakened to receive a threatening phone call at 3:01 AM. The caller identified him/herself as the "voice of Anonymous". This call stated that I have been warned to leave City Councilman Diego M Bernal alone and to stop investigating - reporting the corruption. The call originated in Canada. SAPD Officer Soto - Badge # 9739 created Case# SAPD 11261976 concerning the phone threat. The AT&T Annoyance Call Bureau created a report.

On October 13, 2011 a threatening message was posted on Facebook by Kevin Gonzales – "You Jelly? Get at me Bro!" He also posted the messages "stop spreading lies about SA Anonymous or else this is going to get worse." And "come at me bro."

Raye Penber posted the online message "Come at me, bro" and other comments.

During the predawn hours of October 18, 2011 members of Anonymous and Occupy San Antonio communicated via Facebook with City Councilman Diego M Bernal. They openly discuss the three decades of public/police corruption that Bernal/the City/SAPD conspire to hide. They paint me as a moron, paranoid, stupid and a threat to Councilman Bernal/his staff. Occupy/Anonymous members ask if Councilman Bernal if can notify the authorities. Councilman Bernal does nothing to dispel the untrue allegations that I am a threat or mentally unstable and actually joins in the charade. Rather than protect an innocent citizen's rights he feeds the group with his comments supporting their mob mentality declaring me a paranoid threat. This is not an isolated incident but one of many acts by Bernal to cover up criminal activity inside the City by making me appear insane and a threat to him and others knowing both "facts" are untrue.

On November 2, 2011 the San Antonio City Council was addressed during the "Citizens To Be Heard" portion of the weekly Council meetings. A video was made of the presentation and posted online at <http://www.youtube.com/watch?v=-LbPONVotVA>.

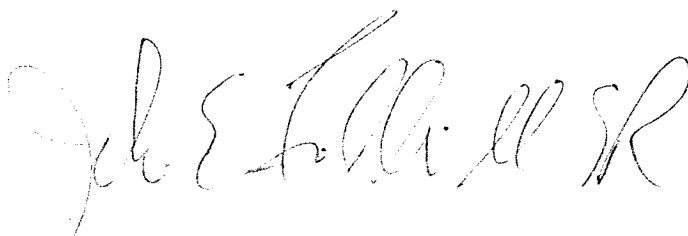
Members of Occupy and Anonymous discuss this video, they post defamatory slurs, Anonymous site administrator Edd Aske posts an online Internet threat on Facebook in regard to the video and access to the Facebook page is immediately denied.

On 11-16-2011 at approximately 4 pm Edd Aske posted the following threat on Facebook "also next time i would let you know not to put that pic up. sanonymous has already told you we will come after you if you continue. understand old man". On November 17, 2011 Officer Walker- badge # 9721 created Case # SAPD 11287895 concerning the online Internet threats. I was directed to contact SAPD Homicide (210-207-7635) after five days.

Photos, Facebook addresses and Occupy/Anonymous site information is attached.

I am concerned for my safety and the safety of my family members. My son – John E. Foddrill Jr. – lives just blocks from my home with his wife and four year old daughter. At times other young children are present in our homes. I fear that these violent persons may attack him and his family intentionally or by mistake and may cause harm to my family members, my granddaughter and other children.

John E Foddrill Sr.



**EXHIBIT**

**4**

John E. Foddrill Sr.  
9650 Limestone Pond San Antonio, TX 78254 210-824-3502

4/8/2013 postal service and email

Mr. Edward L. Pina- Attorney  
8118 Datapoint Drive  
San Antonio, Texas 78229-3268

Thank you for your phone call. I'm sorry I wasn't home but got your message.

I again ask:

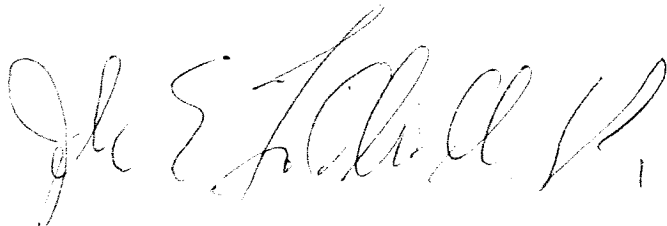
- 1- I beg you to refund my \$2800 ASAP. I can use the money to head off current efforts to foreclose on my home. I have less than 30 days to save my home. When I saw Michael walk out of Federal Court with Stanton's arm around him and heard TCRP attorney Harrington speak to the press I realized that this should have been me back in 2010 - almost 3 years ago.
- 2- I beg you to help me find an attorney to handle my federal civil rights lawsuit that is almost identical to Michael Cuellar's suit being handled by TCRP. Attorney Stanton said that Malinda Gaul is a great attorney deliberately ignoring the "fraud upon the court" in 2009 and her refusal to expose the subornation of perjury and perjury committed to hide numerous crimes by City persons. TCRP told Michael to stay away from me as I lack credibility - another lie. I am not the one lying and helping the City / County hide massive fraud and theft. Doing a balancing act fighting the City while at the same time helping them hide decades of corruption inside the SAFD, SAPD, etc. is just plain crazy.

Please send me a letter with any plans to assist me with the lawsuit and to expose the criminal activity by City attorneys/witnesses/ officials/ employees. I beg you to enclose a check for \$2800.

Maybe you should retract your recommendation that Kathleen forget about informing the court of the criminal acts of City attorneys and others back in February 2009 when they defrauded our judicial system and hid the theft/fraud that I got fired for reporting. ? Maybe now we should expose the "fraud upon the court" of February 2009 that the City / County has kept secret with their illegal ban of 45 long months?

Thank you.

John



Cc: Kathleen, TCRP board members



**Exhibit 6**

# **POLICE MISCONDUCT IN SAN ANTONIO**

**THE NEED FOR MORE ACCOUNTABILITY,  
TRANSPARENCY, AND RESPONSIVENESS**



**A TEXAS CIVIL RIGHTS PROJECT 2011 HUMAN RIGHTS REPORT**

## **ACKNOWLEDGMENTS**

**WE ARE INDEBTED TO JOANNE HEISEY, RYAN NOVOTNY, ELOISE SANTA MARIA, DEREK MILLER, MELISSA RODRIGUEZ, KEVIN BLODGETT, JANINE WETZEL, AND NICHOLAS JACKSON, WHO COLLABORATED ON THE RESEARCH AND WRITING OF THIS REPORT.**

Special thanks to the many organizations and individuals who contributed their knowledge, insight, and stories to this report, including:

Jaime Martínez, Founder, Cesar E. Chavez Legacy and Educational Foundation  
Henry Rodriguez, Civil Rights Chair, and George Alejos, Housing Council, LULAC of Texas  
M. Lynn Blanco, Miriam Elizondo, Carmen Vasquez, Deana Buriel,  
and Sherrill Case, The Rape Crisis Center in San Antonio  
Patrick Filyk and Edward Piña, Attorneys, former Presidents, ACLU San Antonio chapter  
Ruby Krebs, former President, San Antonio Gender Association,  
member of SAPD Citizen Action Advisory Board  
Mario Salas, Adjunct Professor, University of Texas at San Antonio, civil rights leader, and author  
Jack Ryan, Captain (Ret) Providence, RI Police Department,  
Co-Director of Legal & Liability Risk Management Institute, Attorney  
Timothy Maher, Associate Teaching Professor of Criminology and Criminal Justice,  
University of Missouri-St. Louis  
Elena Guajardo and Dee Villarrubia, Texas Stonewall Democratic Caucus  
Oliver W. Hill, President, NAACP of San Antonio  
Margo Frasier, Austin Police Monitor



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## **Executive Summary**

A string of incidents in the past few years has revealed a troubling pattern of misconduct by San Antonio police officers, ranging from illegal searches and sexual misconduct to unresponsiveness and indifference to victims. The thread connecting these incidents is the fact that better supervision, accountability, and transparency by SAPD could have prevented them. The Texas Civil Rights Project has documented many of these events, discovered through media reports, accounts from community members, SAPD records, and its own intake process.

A review of SAPD's response to many of these incidents shows that misconduct is often addressed too late — after an officer does something egregious, and too late for the department to try and remedy the officer's dangerous habits and tendencies. SAPD itself has commissioned a number of independent auditors to study some of these issues. To its credit, some changes are beginning to take place, though many reforms have not yet been considered, fallen by the wayside, or have yet to be implemented.

This report discusses a departmental culture that protects its own and is unwelcoming of supervision. Citizens report a variety of problems in dealing with the police, often when they are the victims and especially when they attempt to lodge complaints against the police. Internal Affairs' policies and practices create a hostile environment for individuals reporting possible police misconduct. The agency also suffers from a serious lack of transparency that impedes public scrutiny, and many roadblocks protect officers against the possibility of serious repercussions for most of their actions.

SAPD's current police chief, William McManus, has made efforts to move the department in the right direction by listening to citizens' concerns and pushing for changes. In order to encourage continued improvement on this front, this report provides forty-one (41) specific recommendations that address institutional problems in SAPD's culture, training, and policies. The recommended changes focus on the following areas:

- improving the investigation of citizen complaints through greater autonomy for investigators and providing better information and follow-up for complainants;
- increasing supervisor accountability for misconduct by subordinates when the supervisor fails to report or address it;
- facilitating supervisors' oversight of police officers through the creation of standardized disciplinary guidelines and better monitoring of officers' job performance;

- supporting officers in dealing with the challenges and pressures of law enforcement through access to mental health services, employee assistance programs, and supervisor training; and,
- equipping officers to deal better with victims and groups who are subject to discrimination, through regular in-service training and partnerships with community organizations, and adding two victim liaisons to the police force.

### **Note on Sources & Methods**

TCRP conducted a broad investigation with the dual goals of documenting the forms of police misconduct prevalent in San Antonio and identifying improvements and best practices to stop these problems from continuing to occur.

A significant part of the factual information gathered for this report comes from SAPD and Internal Affairs records obtained through open government requests.

In addition, TCRP interviewed a large network of community leaders and organizations in San Antonio to learn more about the problems faced most frequently by different constituencies, some of which are not widely discussed in the news media.

TCRP's own intake process and legal advocacy informed this report on specific issues.

Lastly, this report's analysis and recommendations takes into account other recent studies of SAPD, including reports by the PERF committee and the Matrix Consulting Group.

More information on select references is available in the Appendix and on our website, <http://www.texascivilrightsproject.org/go/sapd>.

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happening — the intimidation tactics, described by Filyk and other community members, have had the pronounced effect of driving away would-be complainants.

### **(b) Empowering Independent Review of Police Actions**

SAPD can look to other major cities in Texas for examples of how to provide effective independent scrutiny of police officer conduct.

The City of Austin, for instance, established an independent Office of Police Monitor in 2002, when the Austin Police Department was facing circumstances similar to those that SAPD faces now. In response to poor relations between APD and the community, community activists demanded independent citizen oversight of APD. The OPM receives citizen complaints (citizens are still allowed to file complaints directly with Internal Affairs, but almost never do), then sends complaints to Internal Affairs, which conducts the investigation. OPM, however, monitors the investigation of all complaints and is present during all interviews pertaining to formal complaints. Once the Chief of Police makes a decision regarding whether or not to sustain a complaint and, if applicable, what punishment to impose, the OPM notifies the complainant of the result. *If* the complainant is not satisfied with the resolution of the case, he or she can contact the Police Monitor for a conference and go before a citizen review panel, which can make recommendations to the Chief for a different result, further investigation, and potential changes to policies or training.

Generally, citizens feel more comfortable filing a complaint with the Austin OPM because they're not filing it with the police department. And the fact that the OPM exists helps ensure the process is fair, thorough, and transparent. For instance, sustained complaints and punishments levied against officers available online in Austin, providing an additional mechanism for institutional disclosure (the benefits of which are discussed in the next section).

Investigating citizen complaints against police officers is different and poses special challenges because the investigator is investigating a fellow officer, as noted in a 2004 report by veteran citizen complaint investigator Jayson Wechter in coordination with widely recognized criminal justice expert Samuel Walker. Not only are these situations emotionally charged from both sides, but complaint investigators must serve multiple constituents (the accused officer, the victim, the police department, and the community) with significant, but differing, interests in the outcome of the investigation. As a result of these unique pressures, citizen oversight agencies tend to be the most effective type of external review, according to Jack Ryan.

Likewise, Dallas has an independent Citizens Police Review Board that can subpoena witnesses and take complaints and sworn testimony from citizens. If the Dallas Police Department refuses to investigate a complaint, the Board can hire a professional investigator to conduct its own inquiry.

The Dallas institution is an improvement over San Antonio's weak review board, which lacks subpoena power or the ability to take complaints, and concludes with a recommendation which lacks any binding force. However, this model is nonetheless a less successful form of review than a fully independent monitor's office, such as Austin's, because it runs into problems such as the need to wrest control from the police department on a case-by-case basis in order to force an administrative interview.

The SAPD Internal Affairs division has so little legitimacy in the public eye that policy changes alone will not be sufficient to restore its credibility in the eyes of the public. The City of San Antonio needs to establish an independent police oversight board with subpoena power to take citizen complaints, ensure satisfactory follow-up with complainants, and — most importantly — affirmatively monitor the investigative process and patterns of misconduct.

### **(c) Achieving Real, Not Perfunctory, Transparency**

One way Internal Affairs can begin to improve its credibility is by publishing meaningful annual reports. The preface to each section of the Internal Affairs annual report states: "The following charts, graphs and tables provide detailed information on alleged violations of the San Antonio Police Department's Procedures as well as Rules and Regulations."

Yet, the level of "detail" in the reports is unbelievably vague. Internal Affairs annual reports fail to convey any substantive information. The reports simply present a tally of the number of complaints, broken down by whether they were formal (major) or line (minor) complaints, whether they were initiated by citizens or by the administration, what rule was allegedly violated, and of which division and patrol substation the officer was a member.

Nor do the Internal Affairs reports show outcomes of the complaints. Aside from listing the number of officers indefinitely suspended (there were 20 in 2010), there is no mention of how any cases were resolved. Outside organizations and the public at large, therefore, have no means of monitoring whether or not Internal Affairs investigators are actually doing their jobs.

Further, the reports list complaints to categories that are far too broad to convey any real meaning. For example, an offense like that committed by Officer Nash (on-duty sexual assault)



would be lumped under the category "Responsibility to Serve the Public -- Conduct and Behavior."

Complaints must be broken down into categories that are specific enough to reflect the types of misconduct that occur.

According to Tim Maher, a criminal justice expert at the University of Missouri-St. Louis (and former police officer), who specializes in police deviance and sexual misconduct: "It's important that police sexual misconduct, in particular, be a specific category because if there's no specific mention of inappropriate sexual behavior, such problems are left in a grey area and it's unlikely that anything will be done about it." Police sexual misconduct has clearly been an issue for SAPD in recent years, and therefore needs to be reflected in IA reports.

The Internal Affairs report should also include a detailed breakdown of the complaint and review process so the public can understand what SAPD does to police itself. Relatedly, this information should be included on all IA literature to enable complainants to understand how the process works and what their rights are, something that hasn't happened in the past.

For example, complainants have habitually been prohibited from bringing an attorney with them to file a complaint, despite a departmental policy to the contrary (incidentally, complainants also have no right to bring an attorney to CAAB hearings). George Alejos of LULAC says that, in his experience, Internal Affairs never allows advocates to accompany complainants when filing a complaint. Patrick Filyk has been able to argue his way in a couple of times to accompany clients when filing a complaint, but he says that he's "had to be pretty forceful." Likewise, "they say they'll come to you to take your complaint, but they never do."

And according to Mario Salas, an organizer of the PERF community focus group and former city council member, complainants have been told they have to take a drug test before filing a complaint, which is also against protocol. Making information about Internal Affairs policy available to the public in a clear and easily accessible way can help prevent violations of policy by individual officers.

As noted, SAPD has instituted some positive reforms over the course of the past year, but unless Internal Affairs provides meaningful reports, the citizens of San Antonio will be unable to monitor whether SAPD is making any real progress.

#### **(d) Compounding Factors**

Even when complaints do trigger an Internal Affairs investigation, outside actors often

sabotage the process. The police union's collective bargaining agreement stipulates that all complaints must be investigated, and punishment imposed, within 180 days of the incident complained of. Officers' lawyers have been known to drag the investigative process out past the 180-day period whenever possible in order to foreclose possible sanction of their client.

And the union has continued to pay officers' salaries while they are serving an unpaid suspension for misconduct, which takes much of the sting out of any punishment handed down. If officers are being paid even while serving an unpaid suspension, then, short of termination, there are no substantial consequences that would deter officers from committing acts of misconduct. Officers therefore don't have to fear significant repercussions for anything but the most severe and termination-worthy misconduct, which represents only a small minority of all officer misconduct.

Even when officers do face sanction from the police department, they rarely face criminal sanction. The District Attorney's office has routinely failed to prosecute cases of criminal misconduct by police officers, which only reinforces the notion that officers are not beholden to the law. This failure sets a bad example and sends a message that, in reality, the penalty for misconduct is not heavy.

## **VI. A Problem of Culture**

In cases of the most egregious misconduct, such as on-duty sexual assault, for example, it appears that Internal Affairs usually responds swiftly and appropriately. However, these cases of severe criminal misconduct do not represent the majority of complaints citizens have regarding interactions with SAPD officers.

Both Henry Rodriguez, Civil Rights Chair of LULAC of Texas, and Oliver Hill, President of the NAACP of San Antonio, say that most of the complaints, which their organizations receive about SAPD officers pertain, to officer rudeness and unresponsiveness. "Officers are often insensitive, arrogant, and disrespectful," Rodriguez said. These types of complaints need to be taken just as seriously as those pertaining to more severe misconduct — not merely because such behavior is inappropriate in itself, but because it is a precursor for later problems.

Edward Piña, an attorney who was on the PERF committee and also a former president of the San Antonio ACLU chapter, explains why: "One of the things I learned while serving on the PERF committee is that officer rudeness is the strongest predictor of more serious misconduct

down the road.” Dr. Maher affirms this reality, observing that “if you let officers get away with minor stuff, then they are likely to engage in more serious misconduct. There must be consequences for police misbehavior, and zero tolerance for officer misconduct.”

Concerns voiced by members of the San Antonio community echo the Matrix Group’s diagnosis that the misconduct exhibited by SAPD officers is a reflection of the culture embedded in the department.

Earlier this year, for instance, Austin police officers pulled over an SAPD officer for suspected DWI. He was in Austin for a police officers’ convention. After determining the SAPD officer was in fact intoxicated, the APD officers placed him under arrest. At this, the SAPD officer went ballistic. He was absolutely incredulous that the APD officers would arrest a fellow police officer, and insisted that that would never happen in San Antonio.

SAPD officers are quick to protect each other, but are not as responsive to the needs of community members, particularly when those members come from poor, vulnerable, and marginalized populations. Recently, a subsidized housing tenant was illegally evicted by her landlord. The landlord removed all the woman’s belongings from her home and left them outside along the street, which he was clearly not permitted to do under well-established law. By the time the woman arrived home from work, all her belongings had been grabbed by passersby. She called the police, but the officer who arrived refused to write a police report up for theft. Instead, he insisted that this was a civil matter and he didn’t need to get involved.

#### **(a) Better, More Consistent Training on Victims’ Services**

Just like the woman illegally evicted from her home, citizens of San Antonio often find SAPD officers unresponsive when they need them the most. Members of the community who work regularly with victims of sexual assault and domestic violence find that officers often respond inappropriately to victims.

The Rape Crisis Center management team explained that the questions officers ask victims are often victim-blaming, which creates even more trauma for victims. Sometimes clients tell them officers don’t believe them. “Officers will sometimes call sexual assault nurses and ask them to take blood alcohol reading of the victim to try to prove she’s lying,” Deana Buriel of the Rape Crisis Center said. And often, officers don’t know how to communicate with victims in an appropriately sensitive manner. “Sometimes cases are hard to prove, so they won’t be able to take the case. But their language when they tell the survivor that they can’t take her case needs to

be better. The language and manner in which they handle people is so inappropriate. One victim had gone to the hospital, then tried to call an officer to file a report, and he told her that her case was dropped because it was consensual," Ms. Buriil said. Carmen Vasquez, also of the Rape Crisis Center, reported that another victim, a teenage girl, was asked by the responding officer to lift up her shirt and "show me where he touched you."

An experienced victim advocate we spoke with finds officers often respond equally inappropriately to victims of domestic violence: "I think there is a bias against women if they don't have the 'victim look.' Sometimes our clients are on probation for DWI or something like that. Sometimes they have children with multiple fathers. Sometimes they have lots of tattoos or suffer from mental illness. They're not the ideal victim. And officers often don't believe them or assume that they're mutually combative."

She has also found that, when women express other concerns to the officer responding to a domestic violence scene — concerns over who will take the kids, for example — officers will often immediately treat the call as a civil matter and refuse to help. "Officers lose focus of the purpose of a 911 call. They say, 'This is a custody or a divorce issue, you need a lawyer; we're not going to get involved.' But people don't call 911 for a lawyer — they call because they need help." Officers are also called to the scene to help diffuse situations of domestic violence; their attitudes can have a large impact on the resolution of those violent situations.

The victim advocate believes there is a need for consistent, ongoing training, including updates on what the law is. She also believes there is a need for greater empathy in victims' services. "Officers need to understand that domestic violence victims aren't always going to look like a typical victim," she says. "Victims might not show a lot of emotion because they have a history of abuse and have become accustomed to it and have learned to cope with it in a certain way. But in those cases officers have a hard time believing them."

The Rape Crisis Center's management team has found that SAPD management has been open to sitting down with them, discussing issues, and trying to make improvements. Last year, they were invited by SAPD to provide victims' services training of all SAPD officers from the top down, which was very well received by the vast majority of officers. The management team had nothing but positive things to say about Lieutenant Andrew Carian, SAPD's sex crimes liaison. "Lieutenant Carian is great, very responsive. He gives great training. But we don't see that it trickles down," Ms. Buriil said.

Miriam Elizondo, Executive Vice President for Client Services at The Rape Crisis

Center, believes part of the problem is desensitization. "Cops are so desensitized that they themselves are causing trauma," Ms. Elizondo said. "We need to keep in mind that officers are a traumatized population as well — it's hard for them to shift gears." Elizondo believes part of the solution could lie in improved mental health services for officers. "SAPD has only one or two psychologists for officers to see. There's no specific employee assistance program. SAPD needs to promote mental health services to help with compassion fatigue, burn-out, and desensitization."

Another way to improve victims' services is to elevate the status of the sex crimes unit and the domestic violence unit. Currently, these are entry-level units, for new detectives. Generally, detectives don't want to be there. Rather, detectives see these units as merely a holding station until they get promoted. It's important that the status of these divisions be elevated, both so that detectives view the work as important and so that more experienced detectives are working with these types of victims.

Another part of the solution could be to partner more closely with victims' agencies. The Rape Crisis Center finds that when its staff is in the room when officers are interviewing victims, officers behave better. Currently, rape crisis intervention advocates can go with the victim to file a report, but are not allowed to accompany them while an officer is interviewing them. The intervention advocates feel it is important that they be allowed to accompany the victim, not only to help ensure that the victim is treated appropriately, but also to help officers get more useful information from them. "How you treat the victim determines how likely you are to get the info to help the case. We can be the go-between to help them get information, but SAPD resists that help," Buriil said.

The problem of lack of follow-up is a problem not only of the complaint process but of victims' services as well. "Clients don't feel they have their phone calls returned," according to Buriil. "Follow-up is nonexistent. Often they don't even know if their case was taken as a sexual assault report. Clients who've called once sometimes are hesitant if there's no callback."

In the last few years, SAPD established victims' advocates to serve as liaisons between detectives, victims, and victims' agencies like the Rape Crisis Center. But there are only two advocates, and they are overworked and overwhelmed. Often rape crisis case managers will call several times and never hear back. "It takes a lot of work and perseverance to access the [SAPD] advocates. Sometimes it's easier just to track down the detective," according to Buriil.

The most recent year for which SAPD's website provides statistics on domestic violence

is 2005; in that year, there were 12,633 reported domestic violence assaults in San Antonio. That number had increased steadily each year from 4,723 in 1997, the earliest year for which statistics are provided.

If that trend has continued, the prevalence of domestic violence in San Antonio is even greater today. The most recent available statistics on rape are from 2009; in that year, SAPD handled 628 cases.

In addition, the Rape Crisis Center works with three new victims who report sexual assault every day. Given the enormity of the problems related to domestic violence and sexual assault in San Antonio, it is not surprising that the two SAPD liaisons are difficult to reach. In order for the victims' advocacy program to be successful, there needs to be more funding for at least two more SAPD liaisons.

#### **(b) Reforming Anti-LGBT Attitudes Through Ongoing Training**

Another group that has historically been the target of SAPD officer insensitivity is the LGBT community. By all accounts, relations between SAPD and the LGBT community have improved greatly in the last few years. SAPD established an LGBT liaison in 2004. Since Chief McManus took office in 2006, he has led the charge in softening relations with the LGBT community. "McManus is very gay-friendly," said Elena Guajardo, co-chair of the Bexar County Stonewall Democrats. In 2007, he served as grand marshal of the gay pride parade.

SAPD has made LGBT sensitivity training a part of the police academy curriculum starting in 2008 and has invited representatives of the San Antonio Gender Association (SAGA) and the Stonewall Democrats to conduct the trainings.

Following Officer Nash's sexual assault of a transgender woman in 2010, McManus apologized to the LGBT community for the incident and attended a SAGA meeting to express his commitment to treating all citizens equally. Last December, the city council appointed two members of the LGBT community to the Citizen Advisory Action Board: Ruby Krebs, a former president of SAGA and currently on the board of the Stonewall Democrats (who also served on the Chief's personal advisory board reviewing the Matrix study); and Dee Villarubia, one of the original founders of the Stonewall Democrats and currently the Deputy Chair of the Bexar County Democratic Party (the first lesbian to hold that office).

Despite these efforts, Krebs reports that, "amongst veteran officers, there are still entrenched negative attitudes toward the LGBT community." Since LGBT sensitivity training

only takes place at the police academy, any officers who joined the force prior to 2008 haven't received the training. "What I would love to see," Krebs said, "is LGBT sensitivity training required for veteran officers. There is sensitivity training in the police academy, but veteran officers haven't received this training, and they're the ones who need it the most because once new recruits get out of the academy, the veteran officers are the main influence on them. Things are markedly better, but there's still a lot of work to be done."

Another remarkably effective sensitivity training technique integrates field work into police academy training programs. Jack Ryan, in his work advising police departments, has come to recommend that departments develop "service-learning partnerships" as a component of academy training. While officer need sensitivity training on issues such as race/ethnicity, social class, gender, and sexual orientation, classroom instruction alone can only accomplish so much.

Ryan previously assisted one police department in preparing a program for recruits to do field work in partnership with sexual assault clinics, domestic violence shelters, workforce development organizations, and Boys & Girls' Clubs. Each recruit kept a journal of observations and reflections during each visit, and, according to Ryan, the ensuing classroom discussions prompted an unprecedented level of engagement and empathy among participants.

Such programs, both for academy recruits and more veteran officers, provide a crucial experiential component to sensitivity training, and also aid in building stronger relationships with the community the department serves.

### **(c) A Structured Process for Officer Conduct Review and Discipline**

Officer misconduct, whether it involves unnecessary rudeness or something far more serious, must be dealt with appropriately and consistently. Supervisors need both accurate information and adequate guidelines to effectively respond to problem behavior by subordinates. These two needs, in turn, can be addressed with two useful law enforcement tools: a disciplinary matrix to provide guidance, and regular supervisory field reviews to provide fuller information.

According to police accountability expert Samuel Walker, "lack of consistency in discipline is a special problem in large agencies where responsibility for discipline is decentralized among commanders at the precinct level." As Walker noted in a 2003 report, this issue is a major concern not only for the public, but among rank and file police officers in many departments as well. The perception of inconsistency can manifest as an impression that certain officers are treated more favorably than others, or that different command officers apply

inconsistent standards for judging similar behavior.

A disciplinary matrix is meant to remedy this problem by creating a formal schedule for disciplinary actions. The PERF committee (which is composed of top police executives from other departments) concluded that SAPD should develop exactly such a schedule. PERF explained its recommendation and the reasons for it: "A matrix groups violations by severity and then offers a range of sanctions for each group. A matrix system maintains a range of sanctions, allowing management to take into account individual circumstances, but adds predictability and equity for officers having committed similar infractions. It also provides a statement by the department about how senior management views the severity of different types of misconduct."

SAPD decided in error to reject PERF's proposal, leaving open only the possibility of future conversations on the issue. A well-designed disciplinary matrix has the potential to act as a guidance system for law enforcement supervisors. Of equal importance, it demonstrates concretely to officers that there are predictable adverse consequences for improper conduct. A disciplinary matrix serves as a specific tutorial to officers on what is (and is not) acceptable behavior. In addition to its broader effects, a disciplinary matrix would help SAPD deal with a problem not dealt with effectively at present: it could act as a greater deterrent to the problem of officer sexual misconduct, by warning officers on the seriousness of sexual misconduct, and educating them that activities that some officers may think of as harmless — such as pulling a girl over because she is attractive or looking up a woman's phone number in a police database — is a punishable violation of policy.

Even with a better guide to enforcing disciplinary rules, however, supervisors cannot correct behavior they are not aware of. SAPD recently took an important step toward addressing this problem by streamlining supervisors' workloads and improving the ratio of supervisors to line officers. More numerous and attentive eyes can catch misbehavior earlier, and help in combatting an entrenched culture the Matrix Group described as unwelcoming of supervision.

But supervisors need better ways to monitor their subordinates' day-to-day conduct as well. Police practices expert Jack Ryan, noting that this report (as well as the Matrix Group) advises the installation of mobile video recorders in field response units, suggested a practice his experience has shown to be a powerful tool for supervisors. Namely, supervisors should utilize the availability of this video data to conduct occasional, random supervisory reviews of their employees' stops. By reviewing video records, rather than relying solely on officer reports or complaints, supervisors can ensure that subordinates are following procedures and using proper



techniques in their everyday performance.

Supervisors can also mandate additional training, or in some cases impose discipline, based on information learned through such reviews (which they otherwise might never have been able to observe).

The investigation of Officer Martínez — especially the belated discovery of evidence of his misconduct that had been in his supervisor's possession the entire time — sufficiently demonstrates this point, but the practice of random reviews has further precedent. Under a well-known consent decree between the U.S. Department of Justice and the New Jersey Division of State Police in effect between 1999 and 2009, supervisors were required to regularly review “patrol car video tapes of traffic stops, to ensure that troopers are employing appropriate practices and procedures. Where concerns arise, supervisors may require that the trooper be counseled, receive additional training, or that some other non-disciplinary action be taken. Supervisors also can refer specific incidents for further investigation, where appropriate.”

SAPD's proposed budget for the coming year appears to provide for a significantly expanded deployment of video cameras in police vehicles, possibly in an effort to implement the Matrix Group's recommendations.

The department should bolster the effectiveness of this new tool by requiring supervisors to conduct regular reviews of each of their officers' stops — no less than twice per month per officer according to Mr. Ryan, and preferably utilizing a standardized checklist approach. This review would pick up patterns on officer stops, misconduct, and safety violations by officers which then could be remediated.

And even when video recordings are not accessible, supervisors can nonetheless attain similar improvement (albeit less efficiently) by occasionally appearing at stops being conducted by officers under their supervision, to monitor their behavior on a regular but unpredictable interval.

## **VII. Summary of Recommendations**

### **To the City of San Antonio:**

- The City should create an independent civilian police oversight board to take complaints and oversee the investigative process. The board should be able to subpoena witnesses and sit in on Internal Affairs interviews with complainants and witnesses.

- The City should set requirements for transparent, meaningful reporting by Internal Affairs.
- The City should provide more funding for two more victim liaisons.
- The Mayor should establish a committee of council members to evaluate and make recommendations regarding Internal Affairs transparency and to consider implementation of the recommendations in this report.
- The collective bargaining agreement should be amended so that any complaint filed within 180 days of the incident will be investigated thoroughly and, if necessary, seen through to the punishment phase, with no time limitations, or, in the alternative, provide that the department has 180 days to take disciplinary action against an officer starting at the time the complaint is filed.
- The collective bargaining agreement should be amended to prohibit the union from continuing to pay officers' salaries while they are serving unpaid suspensions for misconduct.

**To the Bexar County District Attorney's Office:**

- The DA's office should prioritize pursuing cases of criminal police misconduct in order to send the message to police officers and the public that they are not above the law and to create an added layer of accountability and deterrence against police misconduct.

**To the San Antonio Police Department (SAPD):**

**Complaint process accessibility**

- The citizen complaint form should be available online. Providing an email address via which citizens can contact Internal Affairs is not satisfactory.
- Threats of prosecution against complainants should be removed from all Internal Affairs forms and intake procedures, and the "Aggravated Perjury" language should be removed from the Internal Affairs website.
- Complainants should receive written, regular updates of the status of their complaints and the progress of the resulting investigation.
- Complainants should be provided with a telephone contact to check on the status of the investigation of their complaint.

- Anonymous complaints should be accepted for the purpose of triggering further investigation, especially with regard to the supervisor of the allegedly offending officer.
- Complainants themselves, and not Internal Affairs officers, should be able to transcribe their own sworn statements if they choose, and be advised of that option.
- The complaint form should be available in Spanish, and complainants should be allowed to give their statements in Spanish.
- Internal Affairs literature should make clear that people can file complaints no matter what their immigration status is and without fear of retaliation.
- Complaints should be privileged. Citizens should be immune from perjury charges on the grounds of statements made in the complaint.
- Complainants should be entitled to bring an attorney or non-attorney advocate to meetings with Internal Affairs or the Chief's Advisory Action Board.
- SAPD should reach out to the community to inform people about the complaint process and encourage them to file complaints when they have been the victim of officer misconduct.

#### **Officer accountability**

- Officers should be encouraged and trained to intercede when they witness misconduct by fellow officers and to report misconduct by fellow officers to Internal Affairs; officers and their supervisors should also be held accountable for failure to report misconduct.
- Any officer who attempts to dissuade a complainant from filing an abuse or other complaint should be punished appropriately.
- SAPD should provide periodic training on receiving complaints. All officers should be required to demonstrate competency in understanding complaint policies and procedures.
- Sustained complaints against an officer should never be purged from the officer's record after a set period of time.
- Upper-level officers should routinely review supervising officers to ensure they are appropriately supervising their subordinates.

- Supervisors who fail to appropriately supervise their subordinates should be held accountable for their subordinate officers' actions.
- When a complaint alleging potentially criminal behavior is sustained, it should be automatically forwarded to the DA's office for review.
- The filing of a civil lawsuit alleging officer misconduct should automatically trigger an internal investigation.

### **Internal Affairs reporting**

- Internal Affairs should improve transparency of its reporting. Complaints should be broken down into more specific and more meaningful categories, and reports should discuss investigation and outcomes of cases. Internal Affairs should consult the Austin Police Monitor's report as an exemplar.
- Police sexual misconduct policy should be categorized separately as sexual misconduct, not lumped in with other forms of misconduct.
- Internal Affairs reports should indicate where supervisors were held accountable for misconduct by subordinates and where supervisors and officers were held accountable for failure to report misconduct.
- If the Chief's Advisory Action Board votes to sustain a complaint against an officer and the Chief decides not to discipline the officer, a detailed justification for his decision should be provided publicly at the time of the decision and as part of the Internal Affairs annual report.
- Punishments imposed on officers by the Chief of Police should be made public on the police department's website.

### **Oversight**

- SAPD should develop a disciplinary matrix, after consultation with outside experts and professional standards, for use by supervisors in dealing with officer misconduct.
- GPS devices should be located in the patrol vehicle, not in the vehicle's computer system, so that officers can't unplug them.
- Video recording devices should be installed in all field response units, and supervisors should be required to conduct a supervisory review of no less than two stops per month

per officer, based on a standardized checklist/document to ensure compliance with SAPD policies and detect any patterns of misconduct and safety violations by officers which then could be remediated.

#### **Officer support**

- SAPD should provide better mental health services for officers and create a proactive employee assistance program to help alleviate compassion fatigue, burn-out, and desensitization.
- Supervising officers should receive periodic training to improve the efficacy of the Early Intervention System.

#### **Victims' services**

- SAPD should partner more closely with victims' agencies.
- SAPD should require ongoing victims' services training.
- SAPD should elevate the status of the sex crimes and domestic violence units to have more experienced detectives in these units.

#### **Sensitivity Training**

- Veteran officers should receive periodic LGBT sensitivity training.
- SAPD should incorporate a field-work component into its training programs (minimum of 40 hours in academy training, and 20 hours annually for officers) that involves officers volunteering with community organizations, such as, for example, sexual assault crisis centers, domestic violence shelters, workforce development programs, and youth outreach.

## **VIII. Appendix: References and Further Reading**

Much of the information in this report was obtained through inspection of police department records and extensive interviews. For additional information, readers may review some of the following materials which were referenced or reviewed in the preparation of this report. PDF versions of these documents are available at <http://www.texascivilrightsproject.org/go/sapd>.

City of Austin – Office of the Police Monitor, 2010 Annual Report.

Matrix Consulting Group, Police Department Organizational and Operational Review, San Antonio, Texas (May 6, 2010).

Police Executive Research Forum, San Antonio Police Department Policy, Practice, and Training Review (May 2008).

San Antonio Police Department – Internal Affairs, 2010 Annual Report: Officer & Complainant Demographics.

U.S. Department of Justice – Office of Community Oriented Policing Services, Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide (2003) (prepared by Samuel Walker, Ph.D., Department of Criminal Justice, University of Nebraska at Omaha).

*United States v. Division of State Police of the New Jersey Department of Law And Public Safety*, Civil No. 99-5970(MLC) (U.S. District Court for the District of New Jersey), Joint Application for Entry of Consent Decree (December 30, 1999).

Samuel Walker, The Discipline Matrix: An Effective Police Accountability Tool?, Conference Report, Police Professionalism Initiative of the University of Nebraska at Omaha (January 2003).

Jayson Wechter, Investigating Citizen Complaints is Different: The Special Challenges of Investigating Citizen Complaints Against Police Officers, Police Professionalism Initiative of the University of Nebraska at Omaha (Samuel Walker, coordinator) (September 2004).



### **About the Texas Civil Rights Project**

The Texas Civil Rights Project (TCRP) promotes racial, social, and economic justice through education and litigation. TCRP strives to foster equality, secure justice, ensure diversity, and strengthen communities. Since its beginning, TCRP has achieved substantial system gains in ensuring justice for all Texans. TCRP uses education and litigation to make structural change in areas such as voting rights, police and border patrol misconduct, sex discrimination, employment bias, privacy, disability rights, grand jury discrimination, traditional civil liberties (i.e. free speech), and Title IX in secondary education.

TCRP was founded in 1990 as part of Oficina Legal del Pueblo Unido, a non-profit community-based foundation in South Texas. Oficina Legal del Pueblo Unido, Inc., started in 1978 as a community, grassroots foundation to provide legal assistance and education, without cost, to low-income people, particularly minority persons and individuals victimized by discrimination.

TCRP began with an unpaid staff of two in the Austin Peace Building (an attorney and an office manager). Within a few months, TCRP was able to hire an attorney for its South Texas office. TCRP now has offices in Austin, Alamo, Odessa, and El Paso, and a staff of 37 people.

Since 1990, the Texas Civil Rights Project has been a tireless advocate for racial, social and economic equality in Texas, through its education and litigation programs.

Some of the achievements we are most proud of:

- \* Handled more than 2000 cases
- \* Published eight Human Rights reports on issues such as hate crimes and the death penalty
- \* Compiled five "self-help" manuals
- \* Published 300 opinion editorials in Texas newspapers
- \* Given 250 speeches and talks on civil rights
- \* Conducted community and lawyer trainings for more than 22,000 persons.

The South Texas Project has worked steadfastly to extend equal rights to farm laborers and *colonia* residents in the Rio Grande Valley, and improve their living and working conditions.

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We have litigated every kind of official misconduct in every part of Texas — city police, sheriff deputies, Department of Public Safety officers, and Border Patrol agents. Because of our work, jails in Hidalgo, El Paso, Henderson, Tom Green, Williamson, Travis, Bexar, Dallas, and Brown Counties do much more now in preventing inmate suicide, providing interpreters for deaf prisoners, protecting vulnerable inmates from sexual assault, administering HIV medications, and making them accessible for inmates with disabilities.

TCRP set the national model in ballot accessibility for blind voters and has led more than two dozen regional compliance campaigns in Texas under the Americans with Disabilities Act (ADA). Thanks to the efforts of our staff, churches and courthouses in Texas are much more accessible to elderly and disabled people – and government more accountable.

We have pioneered a unique “circuit-rider” outreach program in west and south rural Texas for abused and undocumented spouses under the Violence against Women Act (VAWA).

And we have prodded the Texas Supreme Court to improve pro bono services for poor and low-income families in the state, 90% of whom have unmet legal needs each year.

Our Title IX educational and litigation programs on sexual harassment, bullying, and equal sports opportunities have helped make rural middle schools and high schools more hospitable for young women. Our work has also opened up the prospect of athletic scholarships to college for them.

Our “Equality under the Law” campaign has addressed “benign” discrimination against African Americans and Hispanic Americans in banks, restaurants, motels, and other places of public accommodation.

Our efforts to help South Asian, Muslim, and Arab citizens, permanent residents, and students who fell victim to post September 11 discrimination have included filing a suit against a major airline, and enlisting Texas attorneys to represent, on a pro bono basis, individuals who were questioned by the FBI.

We worked with the Mexican American Legal Defense and Education Fund (MALDEF) to help create single-member school board districts in Del Valle ISD and assisted in redistricting the Texas Legislature and Texas Congressional so as to protect the voting and representational rights of minority citizens.

We assisted the NAACP in bringing the U.S. Department of Justice to review Austin Police Department policies and make changes to APD’s use of force practices in minority communities.

We joined with the American Jewish Congress in one of the first court cases in the country to challenge the constitutionality of government funding of a religiously orientated job-training program that used the Bible as a text and proselytized among its trainees.

We are a leading voice in raising questions about the fairness of Texas’ death penalty scheme, and the possibilities of executing innocent people. So, too, are we an intrepid advocate of traditional civil liberties, such as free speech and assembly, due process, and equal protection under the United States and Texas Constitutions.

*History of Oficina Legal del Pueblo Unido, Inc. and the Texas Civil Rights Project, and other information, available at <http://www.texascivilrightsproject.org>.*



EXHIBIT

7

John E. Foddrill Sr.

9650 Limestone Pond

San Antonio, TX 78254

210-824-3502

1-22-2013

Attorney Kathleen Cassidy Goodman  
12274 Barrera Road, Suite 228  
Helotes, TX 78023

certified mail 7012 3050 0001 5440 5362

Edward L. Pina  
3118 Datapoint Drive  
San Antonio, Texas 78229-3268

certified mail 7012 3050 0001 5440 5379

Attorney David L. Willborn  
9310 Broadway Bldg. II Ste. 201  
San Antonio, Texas 78217

certified mail 7012 3050 0001 5440 5386

Super Lawyer Malinda Gaul  
924 Camaron  
San Antonio, TX 78212

certified mail 7012 3050 0001 5440 5393

57<sup>th</sup> District Court Judge Arteaga  
100 Doloresa  
San Antonio, Texas 78205

certified mail 7012 3050 0001 5440 5409

SA13CV0051XR has been filed in Federal court as I have been banned from City Hall / public Council meetings and otherwise harmed when the City/County has tried to cover up long-term criminal activity. The Texas Civil Rights Project is filing a lawsuit for Michael Cuellar who like me was banned with no reason, time limit, due process, etc.

Each of you have been named in SA13CV0051XR because you possess proof that City attorney Deborah Klein, attorney Mark Kossanovich and others presented a "fraud upon the court" financed with tax dollars in an effort to hide three decades of criminal activity inside the City when the billing account - the "variable" -, the Avaya telephone contract and other means were used to illegally gain access to tens of millions of dollars with no competitive bidding, public review, Council vote, ordinance, etc. The record shows that attorney Gaul withheld material evidence from the Court including CIO Varn's deposition, AD 6.12, city emails, city reports, MI docs, etc. Many documents are "Bates Stamped" proving that ALL attorneys knew of their existence and that the court was being defrauded. You have proof that the funds were used to fuel criminal schemes including the theft of up to \$200,000 via "padded" invoices submitted and approved by IT manager Medina and city vendor Gonzaba - mail/wire fraud. You have proof that illegal no-bid contracts with huge mark-ups were steered to "friends"-contract fraud. You have proof of massive fraud where millions of dollars a year were falsely written off in official audits/reports/statements as monthly Centrex phone bill payments when in reality the public/grant funds were spent on non-telephone and non-grant related purchases never approved by Council-grantors-taxpayers -grant fraud/accounting fraud. You have proof that City persons submitted known false statements to state/federal representatives an effort to hide the crimes - a felony. You have proof that official statements submitted by auditors contain false information and omit material information in an effort to hide the criminal conspiracy from underwriters, investors, the SEC and taxpayers -bond fraud.

As officers of the Court you have a responsibility to report the criminal conspiracy. To date numerous requests begging that you follow the law, the Rules, etc. have been ignored.

Cc: DOJ Contreras - 7011 2970 0003 1115 4392, DOJ Leachman -7011 2970 0003 1115 4422, DOJ Giese-7011 2970 0003 1115 4415, DOJ Roomberg-7011 2970 0003 1115 4408, Gannon/Grant Thornton LLP - 7011 3500 0002 4211 2470, TPR/KSTX, Texas Ranger Chief Dendy - 7012 3050 0001 5440 5416, media

**EXHIBIT**

9

**Citizens Against Public Corruption Waste Fraud and Abuse**  
9650 Limestone Pond San Antonio, TX 78254 April 22, 2013

City Clerk certified mail 7012 3050 0001 5440 5539  
P.O. Box 839966  
San Antonio, TX 78283

Mayor Castro, City Manager Sheryl Sculley, Councilpersons - David Medina, Saldana, Ozuna, Taylor, Bernal, Soules, Chan, Williams, Cris Medina, Lopez ( individual letters - P.O. Box 839966 San Antonio, TX 78283 )

**Reference: Request to attend public Council Meetings and meet with elected officials in City Hall without being banned and/or arrested AND request for full, transparent, independent investigations**

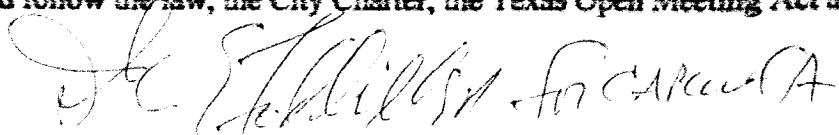
All;

Members of our group would like to attend public meetings and enter City Hall but fear that City Attorney Michael Bernard, Police Chief William McManus and others may make an attempt to arrest former City Telecommunications Manager John E Foddrill Sr. or members of our group in an effort to justify their illegal, unconstitutional act of banning him for almost four years to silence his reports of public/police corruption.

We ask that as our elected officials you publicly condemn the actions of City Attorney Michael Bernard, Police Chief William McManus and others who supported their efforts to violate our Constitution and other laws. We ask that you immediately terminate Bernard and McManus and call for an independent, transparent review of the criminal conspiracy to cover up years of public /police corruption. Bernard, McManus and others have violated the rights of at least two law-abiding citizens and have subjected the City and taxpayers to federal lawsuits because of their illegal acts. In the past month since US District Judge Rodriguez ruled against the City not one official/employee has come forward to address the consequences of the ruling, the underlying reports of criminal activity by City persons or the impact on investigations / cases / arrests / trials / testimony etc. by Bernard, McManus, SAPD, etc. The City's failure to investigate the reports of corruption, failure to discipline / retrain employees, failure to terminate the employees maintaining the conspiracy, etc. makes it appear as if you accept the practices and that you refuse to take any action to ensure that law-abiding citizens won't be banned in the future if they report criminal activity inside the City.

We ask that an official investigation be created to address the Texas Open Meeting Act violations that occurred since July 1, 2009. Each week elected officials, Bernard, City Manager Sheryl Sculley and others participated in illegal meetings violating the TOMA. The City had no grounds to ban law-abiding citizens and in July 2011 an official SAPD report published by Officer Bandoske reiterated the fact that former City Telecommunications Manager Foddrill was not a threat and was not mentally ill. In spite of the fact that City officials had no proof of any threat but did indeed have an official report to the contrary they continued to participate in illegal meetings while Mr. Foddrill was forced to stand outside. He stood outside on the night of November 2, 2011 when citizen Allen Ellebracht addressed the Council begging for protection from terroristic threats by supporters of Councilman Diego M Bernal directed at the Foddrill family. He stands outside today - still fearing retaliation and arrest.

We would appreciate the support of ALL our elected officials and City employees but will gladly work with just one honest, ethical City official willing to step up and follow the law, the City Charter, the Texas Open Meeting Act and our Constitution. Thank you.



Cc: media, TCRP, ACLU, Bexar County DA Reed, DPS Major Alexis, FBI agent Fernandez, US Attorney Pittman

EXHIBIT

10

John E. Foddrill Sr. for CAPCWFA  
9650 Limestone Pond San Antonio, TX 78254 210-824-3502

.5-29-2013 certified mail 7010 3090 0002 7075 2036 and email

Councilman Cris Medina  
P.O. Box 839966  
San Antonio, TX 78283

City Councilperson / Reserve LT USAF Cris Medina;

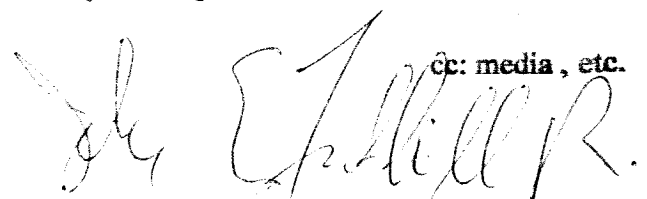
You have ignored repeated efforts to communicate with you concerning public/police corruption, grant fraud, accounting fraud, theft of public funds, oppression, Open Meeting violations, bond fraud and other illegal acts.

You ignored all efforts to meet/speak with you since taking office while you helped City Attorney Bernard and others hide public/police corruption. You ignored reports of the illegal ban imposed by Bernard to hide the crimes issued on July 1, 2009, a raid on the homes of law-abiding citizens by armed police in an effort to harass them into silence on July 4, 2011, reports of terroristic threats to frighten whistleblowers into silence by Councilman Bernal's supporters in late 2011 and other pleas for assistance/protection. On March 27, 2013 US District Judge issued a ruling that found a criminal trespass warning issued to law-abiding citizen Michael Cuellar to be illegal and unconstitutional forcing Bernard to lift the ban against Michael and myself. Since this time you still refuse to communicate with me, follow the law and provide citizens with protection so that City Attorney Bernard, Chief McManus and others cannot harass, arrest or ban us when we attend public meetings or meet with elected officials in City Hall.

You recently ignored certified mail and other letters. You ignored emails of 4/2, 4/3, 4/4, 4/8, 4/11, 4/12, 4/16, 4/18, 4/24, 4/27, 4/29, 5/2, 5/7, 5/9 and 5/10. You ignored telephone calls to your office on 4/23, 5/28, etc. as no meetings have been scheduled and calls are not returned. A certified letter of April 22, 2013 to the City Clerk (with individual copies mailed to you and other Councilpersons) was also ignored. This letter details how citizens believe that corrupt employees/officials will continue in their efforts to hide the criminal activity we have reported and will continue to take action against us in an effort to keep the crimes hidden.

We ask that you schedule a meeting with us, call a press conference, call for an open transparent investigation into the criminal activity and hold the criminals accountable. We ask that you provide assurances/ protection for law-abiding citizens reporting the corruption so that we can safely attend public meeting with no fear of arrest.

Enclosure: certified letter of 4/22/2013

cc: media, etc.  


**EXHIBIT**

12

John E. Foddrill Sr. for CAPCWFA

9650 Limestone Pond San Antonio, TX 78254 210-824-3502

5/14/2013

VIA Certified U.S. Mail

Attorney General Greg Abbott  
Office of the Attorney General  
PO Box 12548  
Austin, TX 78711-2548

7012 3050 0001 5440 1036

(512) 463-2100

Susan Reed  
Bexar County District Attorney's Office  
101 W. Nueva, 4th Floor  
San Antonio, Texas 78205

7012 3050 0001 5440 1043

(210) 335-2311

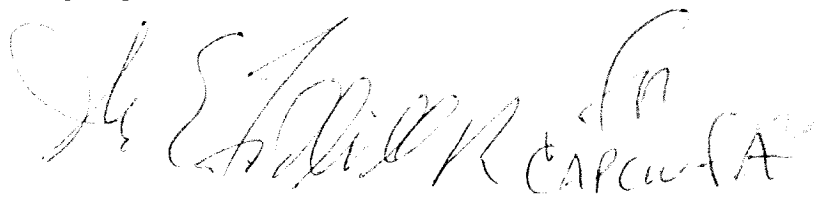
**REFERENCE : Texas Open Meetings Law Violation - SECOND NOTICE**

On April 25, 2013 certified letters were mailed to your offices containing a notarized Texas Open Meeting Complaint detailing how San Antonio TX elected officials and others participated in illegal public meetings for a period of forty-five (45) months.

The complaint details how City Attorney Michael Bernard, Police Chief William McManus, Mayor Castro, Council members, City Manager Sheryl Sculley and others conspired to hide public/police corruption, the theft of public funds, a "fraud upon the court" of February 2009, the falsification of government documents, the misuse and theft of tens of millions of dollars set aside by law/budgets/grants to support E911 and telecommunications systems, the submission of false statements to federal investigators in HUD case HI-10-0465 and other crimes committed by City and County employees/officials. They used the color of the law and abused their offices when they issued two illegal, unconstitutional bans prohibiting law-abiding citizens from entering City Hall and public meetings in an effort to silence them.

The complaint asks that Bexar County DA Susan Reed step aside and allow an independent prosecutor investigate and prosecute the crimes as Reed and her staff have been involved in covering up the criminal activity for years.

We are concerned as we have yet to receive a reply. It appears as if the DA is intentionally ignoring our complaint as she has ignored other reports of criminal activity by City and County employees and officials over the years.





**EXHIBIT**

**15**

Citizens Against Public Corruption Waste Fraud and Abuse  
9650 Limestone Pond San Antonio, TX 78254 210 824 3502

5/24/2013

certified mail 7012 3050 0001 5440 1074

FBI SAC Armando Fernandez  
5740 University Heights  
San Antonio, Texas 78249

FBI Agent In Charge Armando Fernandez;

A representative of Attorney General Abbott's Office suggested that we contact you.

We filed a Texas Open Meetings Act complaint citing the fact that at least two law-abiding citizens were illegally prohibited from participating in public meetings by San Antonio TX City Attorney Michael Bernard (brother of White House Social Secretary Jeremy Bernard), Mayor Julian Castro (Obama campaign co-chairman) SAPD Chief William McManus and others. U.S. District Judge Rodriguez issued an injunction on March 27, 2013 stating "Defendants are enjoined from enforcing the criminal trespass letter during the pendency of this litigation." Judge Rodriguez cited the fact that the City provided no proof of a physical threat, the lack of due process, the lack of procedural safeguards and a citizen's right to freedom of expression being protected by the First Amendment. In response to the Judge's ruling the City lifted bans of seven months and forty-five months. Both citizens cite their "whistle blowing" as the reason Bernard illegally banned them in an effort to hide criminal activity including the theft and misuse of 911 and other public safety funds.

Bexar County District Attorney Susan Reed ignored the original TOMA complaint of April 25, 2013 and a follow-up letter of May 14, 2013. In an effort to protect her former Assistant DA - now City Attorney Michael Bernard - Reed and her office have ignored reports of public/police corruption, the theft of upwards of \$200,000 by City IT manager Jose Medina and city vendor Isabel Gonzaba, no-bid contracts with huge mark-ups steered to "friends", mail/wire fraud, a "fraud upon the court" financed with public funds by Bernard to hide the criminal activity, aggravated perjury, obstruction, grant fraud, falsification of government documents, bond fraud, abuse of office, accounting fraud and other crimes.

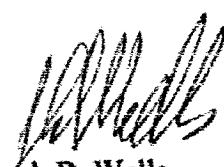
In an effort to protect City Attorney Michael Bernard and others Reed's office has in the past made false statements that they had no jurisdiction when State Senator Leticia Van De Putte and Texas Ranger Hank Whitman indicated otherwise (recording of a meeting with Van De Putte where she reviews the reports of criminal activity and Whitman's letters are available for review). Reed's Office made the false statement that no investigation into the reports of corruption was conducted as there was no evidence of wrongdoing while a published statement to the Attorney General, a search warrant, recordings, etc. indicate that an investigation was in fact begun after ADA Barry Elliott and Texas Ranger Whitman saw proof of the criminal activity - especially the four years of theft via "padded" invoices by Medina and Gonzaba. The investigation was prematurely halted and participants were sworn to silence to hide the criminal activity.

District Attorney Reed's Office ignored many reports of criminal activity but her failure to take action concerning reports of terroristic threats made by supporters of City Councilman Diego M. Bernal to intimidate/scare whistleblowers put lives at risk. A cursory investigation into the telephone and internet threats would have revealed that the "ringleader" of the group Anonymous/OccupySA whose members communicated with Bernal via middle of the night Facebook texting ( documents available ) and who then made the threats was registered high-risk sexual predator Eric Michael King - aka Serpentitis Kingsley. Families including young children remain at risk while DA Reed and her staff look away.

San Antonio TX FBI Agent D. True Brown published a document falsely stating that three separate meetings took place and no wrongdoing by the City was ever discovered. Since 2009 we have asked the FBI for information concerning the dates, times, participants, etc. in these "ghost" meetings. Sooner or later the FBI and DOJ must concede that Agent Brown was being untruthful, there were no meetings and there is proof of an ongoing criminal conspiracy inside the City of San Antonio and Bexar County Texas. FOIA case # 1206258-000 is still open. We wait for an answer and again request assistance. Please schedule a meeting with a group of citizens to discuss this criminal activity and provide us with an opportunity to submit sworn complaints.

Thank you.

  
John E. Foddrill Sr.

  
Frank B. Wells

  
Guadalupe Carreon

for CAPCWFA

Cc: Attorney General

**EXHIBIT**

**18**

1-22-2021 certified mail 7012 3050 0001 5440 5416

Texas Ranger Chief Denby  
PO Box 4087  
Austin, Texas 78773-0600

**Reference: Report of Violations of Law, Public/Police Corruption, Theft/Misuse of Public / Grant funds, Official Oppression, Fraud upon the Court, Contract Fraud, Accounting Fraud, Bond Fraud, etc. inside the City of San Antonio TX and the County of Bexar TX**

SA13C/0051XR was filed in Federal Court and another civil rights lawsuit will be filed by the Texas Civil Rights Project shortly. Our reports of numerous violations of law and public/police corruption detail the underlying reason that corrupt persons inside the City of San Antonio illegally banned at least two law-abiding citizens from City Hall / public Council meetings and issued instructions for everyone to ignore all reports of the crimes from all citizens in an effort to cover up the crimes. We ask that you investigate and help prosecute the public/police corruption and other crimes. We ask that you hold the criminals accountable and that you help recover our stolen, misused money. We are asking that you investigate/prosecute the Texas Penal Code violations and NOT the federal crimes.

Enclosed please find a CD and recent certified letters to:

1. Judge Arteaga, attorney Goodman, attorney Pina, attorney Willborn and attorney Gaul
2. AUSA Roomberg, Chief Giese, AUSA Leachman and AUSA Contreras

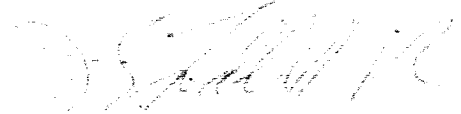
These letters discuss just a few of the crimes we are reporting to you, to the Texas Rangers and to the Texas Dept. of Public Safety. The CD has information detailing the ONGOING criminal conspiracy to hide the crimes.

You will hear rumors (primarily from the people involved in the ongoing criminal conspiracy) that there was nothing to investigate or that all the allegations were investigated and that no wrongdoing was found BUT you will find no official report stating that:

1. It was legal for City IT manager Medina and vendor Gonzaba to submit and approve fraudulent invoices for payment containing extra hours for work NOT performed when they stole upwards of \$200,000 in four years
2. It was legal for City attorney Klein, attorney Kosanovich and City IT Director Miller to coach witnesses to lie under oath when they stated that use of the internal billing account – the “variable” – was a legal means to gain access to tens of millions of dollars with no Council approval, no competitive bidding, no public review, no vote, no ordinance, etc.
3. It was legal to spend millions of dollars a year on whatever city persons wished to use the funds for and then falsely list the expenditures in audits/statements as payment for monthly Centrex phone bills
4. It was legal to steer no-bid contracts to “friends” with no Council approval, open bidding, ordinance, vote
5. It was legal to spend millions of dollars set aside by law, ordinances, grants, bonds to support telecommunications / E911 for office remodeling, travel, furniture, “favors” to friends, non-telephone related costs, non-grant related costs and anyway they wished to spend the money
6. It is legal to ignore police report and other reports of violations of law and to instruct other persons to ignore any such reports from any taxpayer

Please arrange for a group of taxpayers to meet with representatives of the Texas Rangers/DPS so that we can sign official complaints concerning the crimes we are reporting and turnover numerous files of information. Thank you.

Cc: DOJ, TPR/KSTX, Gannon/Grant Thornton LLP, etc.



**EXHIBIT**

**24**

# COMPLAINT AFFIDAVIT

STATE OF Texas

COUNTY OF Bexar

Before me, the undersigned authority in and for the State of Texas, on this day personally appeared John E. Foddrill Sr., who, after being by me duly sworn, deposed and said:

My name is John E. Foddrill Sr.. I am of sound mind, 18 years of age or older, and competent to give this affidavit.

I am reporting violations of law including but not limited to perjury, subornation of perjury, obstruction, presentation of a fraud upon the court, grant fraud, fraud, falsification of government documents/audits, misappropriation of funds, deprivation of honest services, mail fraud, wire fraud, conspiracy and other crimes. The criminal activity violated Municipal, State and Federal Law/Rules/Ordinances. The criminal activity affected Municipal, State and Federal funds.

Most of the people I am reporting are City of San Antonio employees. The persons I am reporting are:

Texas Ranger Captain Hank Whitman 6502 S. New Braunfels San Antonio, TX 78223 (210) 531-4340

Chief Information Officer Richard Varn 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

IT Director Hugh Miller 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

IT Manager Deborah Segovia 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

IT Manager Diana Gonzalez 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

Human Resources Representative Kelly Gray 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

ITSD employee Barbara Moore 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

ITSD employee Aida Anguiano 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

HR employee Steve Harrison 111 Plaza de Armas San Antonio, Texas 78205 (210) 207-8705

Virginia Quinn former Municipal Integrity Manager 1302 Midnight Drive San Antonio, TX 78258  
(210) 481 1581

City Attorney Deborah Klein  
(210) 207-8940

City Hall, Third Floor 100 South Flores San Antonio, TX 78205

City Attorney/ outside counsel attorney Mark Kosenovich  
San Antonio, TX 78205 (210) 207-8940

City Hall, Third Floor 100 South Flores San Antonio, TX 78205

City Attorney John Danner  
(210) 207-8940

City Hall, Third Floor 100 South Flores San Antonio, TX 78205

I wish to report that the persons listed above except for John Danner committed perjury and subornation of perjury during the trial of Foddrill v. City of San Antonio No. 2006 CI 06702 during the month of February 2009 in the City of San Antonio, Texas. These persons conspired to present false evidence and testimony to the court. Many of these persons made false statements to the court in an effort to keep criminal activity secret. Many of these persons committed additional violations of law or conspired with others to keep these violations of law a secret.

I wish to report that City Attorney John Danner violated open records statutes, provided false statements and conspired to keep secret violations of law including State/Federal grant fraud, falsification of government records especially time reports, illegal purchases, fraudulent invoices submitted for payment, workplace violence, fraudulent audits, fraudulent investigative reports and other crimes.

Along with this affidavit I am submitting documents (package 1-3) outlining some of the criminal acts committed by Klein, Varn, Miller and others. Additional documents, recordings, statements, etc. outlining the many violations of law have been delivered to Bexar County District Judge Antonia Arteaga, City Council members, Mayor Castro, Chief McManus and many others. I wish to deliver additional documents, recordings, sworn statements, etc. I am available at any time to be interviewed or to take a polygraph test as I am being truthful and have nothing to hide. I only ask that witnesses are present for any meetings and that a recording be made of any such meetings as statements made during past meetings with law enforcement have been falsely denied under oath.

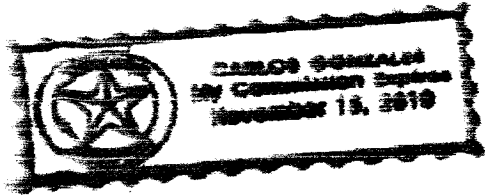
Signed [Handwritten Signature]

SUBSCRIBED AND SWORN TO BEFORE ME on the 23rd day of June 2009 to certify which witness by hand and official seal.

[Handwritten Signature] Signature  
Carlos Gonzalez printed name

Notary Public in and for the State of Texas

My commission expires:  
11-15-10 Date





6/19/2009

All;

I AM REQUESTING THAT CRIMINAL CHARGES BE FILED AGAINST MANY OF THE CITY WITNESSES INCLUDING CHIEF INFORMATION OFFICER RICHARD VARN, IT DIRECTOR HUGH MILLER, IT MANAGER DEBORAH SEGOVIA, IT MANAGER DIANA GONZALEZ, AND IT EMPLOYEE KELLY GRAY, IT EMPLOYEE BARBARA MOORE, IT EMPLOYEE AIDA ANGUIANO, HR EMPLOYEE STEVE HARRISON, CITY ATTORNEY DEBORAH KLEIN, CAPTAIN WHITMAN, VIRGINIA QUINN AND OTHERS.

CRIMINAL CHARGES SHOULD INCLUDE FOR SOME OF THE ACCUSED:

PERJURY  
SUBORNATION OF PERJURY  
AGGRAVATED PERJURY  
FRAUD UPON THE COURT  
OBSTRUCTION  
CONSPIRACY TO COMMIT OBSTRUCTION  
FALSIFICATION OF OFFICIAL GOVERNMENT RECORDS  
STATE/FEDERAL GRANT FRAUD  
WIRE FRAUD  
MAIL FRAUD  
DEPRIVATION OF HONEST SERVICES  
CONSPIRACY  
WORKPLACE VIOLENCE- RETALIATION  
THREATS TO KEEP QUIET AND HIDE CRIMINAL ACTIVITY  
MISAPPROPRIATION OF FUNDS  
ETC.

I HAVE HAND DELIVERED TO THE DPS ON MAY 12, 2009 AND MAILED TO EVERY OTHER LAW ENFORCEMENT AGENCY THE NEXT DAY ON MAY 13, 2009 A FORMAL COMPLAINT OUTLINING THE VIOLATIONS OF LAW INCLUDING PERJURY AND OBSTRUCTION. I HAVE YET TO HEAR FROM YOU AND IT HAS BEEN OVER A MONTH.

HOW CAN YOU CONTINUE TO IGNORE REPORTS OF VIOLATIONS OF LAW?

John E. Foddrill Sr.

