



1000 E. Robinson ST, STE I, Orlando FL 32801

August 24 2016

~~August 12, 2016~~

Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, Texas 78711-2548

To Whom It May Concern:

Pursuant to the Texas Public Information Act, specifically Subchapter H; Civil Enforcement, I hereby request that the Texas Attorney General rule whether El Paso County Judge Veronica Escobar must release public information records requested by me on July 18, 2016.

BACKGROUND INFORMATION

On July 8, 2016, several El Paso County elected officials held a press conference at the County Court House in response to the Dallas police officer deaths. Immediately after the press conference, El Paso Chief of Police Greg Allen delivered some controversial comments about the Black Lives Matter group.

The following day, July 9, 2016, El Paso County Judge Veronica Escobar sought and received a legal opinion from the County Attorney about Escobar's use of her private email account to "reach out to community leaders regarding the statements made by the EPPD Chief of Police."

On the same day, Veronica Escobar sent out a letter from her personal Gmail account to Mayor Oscar Leeser, El Paso city representatives, Texas Senator Jose Rodriguez, US Congressman, 16th District Beto O'Rourke, State Representative Mary Gonzalez, State Representative Cesar Blanco, County Commissioner David Stout and EPISD Trustee Susie Byrd.

On July 18, 2016, I filed the following Texas Public Information Act request with Veronica Escobar seeking public information records as follows:

"Pursuant to the Texas Public Information Act please provide copies of any emails, text messages or social media private communications between Veronica Escobar and any El Paso elected officials, including but not limited to Susie Byrd, EPISD Trustee, Claudia Ordaz, City Representative and/or Jim Tolbert, City Representative – sent, or received on July 8 and July 9, 2016.

In providing the responsive documents, please include the following email accounts vgaescobar@gmail.com, susiebyrd2009@gmail.com, diegotolbert@gmail in addition to the official government email accounts for each sender/recipient and any additional personal emails accounts used to transmit any messages responsive to this request."

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On July 29, 2016, I received the following response from the County Attorney's office to my open records request:

"On July 18, 2016, County Judge Veronica Escobar received your Public Information Act request for the following: copies of any emails, text messages or social media private communications between Veronica Escobar and any El Paso elected officials, including but not limited to Susie Byrd, EPISD Trustee, Claudia Ordaz, City Representative and/or Jim Tolbert, City Representative – sent or received on July 8 and July 9, 2016.

Based on the requested dates, I am assuming you are primarily interested in any communications related to Chief Allen's comments following the press conference on the Dallas shooting incident, but you do not specifically say that. Thus, I did ask Judge Escobar to look for any communications she had with elected officials on the two designated days. Judge Escobar has informed me that she has no records responsive to your request which were created or maintained on County equipment, servers or email accounts.

Concerning documents in Judge Escobar's personal possession which were created and maintained on her personal devices or sent or received by her personal email or cellular phone, there is only one document which we believe constitutes "public information" pursuant to section 552.002 (a) of the Texas Government Code. There is an email sent from County Attorney Jo Anne Bernal to Judge Escobar on July 9, 2016 memorializing Ms. Bernal's advice to Judge Escobar. Judge Escobar has agreed to waive any attorney-client privilege concerning this email, thus allowing me to release it to you at this time (See attached).

Specifically concerning Chief Allen's comments, Judge Escobar contacted the County Attorney, Jo Anne Bernal, on Saturday, July 9, 2016, to discuss the Judge's desire to respond to the comments made by Chief Allen following the press conference about the shooting in Dallas. Judge Escobar informed Ms. Bernal that she wanted to respond to Chief Allen's comments in her individual capacity, and not in an official capacity on behalf of the County of El Paso. Ms. Bernal advised Judge Escobar that if the response was to be in her individual capacity and not on behalf of the County of El Paso, the County Judge should not use any County resources (which would include County supplies, personnel, equipment, or computer/email systems) in preparing or delivering the response. As a result of this exchange, Judge Escobar did not use any County resources in any of her communications concerning the response to the comments made by Chief Allen. This is why there are no emails or texts from any county equipment or on any County computer systems or in the possession of the County of El Paso.

Concerning any other documents response to your request created or maintained by Judge Escobar on her personal devices or sent or received by her personal email or cellular phone, we do not believe the information is "public information" pursuant to section 552.002 (a) of the Texas Government Code. The information was not written, collected, assembled, or maintained by law or ordinance or in connection with the transaction of official business by the County of El Paso or for the County of El Paso. Further, no County of El Paso public money, time or resources were used in writing, producing, collecting, assembling or maintaining the information. Finally, none of the information pertained to the transaction of official business of the County of El Paso. Any responsive information in her personal possession (except for the released email from Ms.

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Bernal) was written, collected, assembled, or maintained in her individual capacity, not in her official capacity as an officer acting on behalf of the County of El Paso.

Since the information responsive to your request does not meet the definition of 'public information' under the Texas Public Information Act, the information is not subject to the requirements of that Act. Since the information is not subject to the Act, Judge Escobar is not required to seek a ruling from the Attorney General concerning any personal communications she wishes to withhold. It is completely within her discretion whether or not she chooses to release her personal information.

This does not mean to say that any communications between Judge Escobar and members of the city council would not constitute 'public information' for the City of El Paso. Comments made by a member of the community to a member of city council concerning the actions of the city police chief may be 'public information' for the city. You would need, however, to request that information from the city."

REQUEST TO THE TEXAS ATTORNEY GENERAL FOR CIVIL ENFORCEMENT UNDER 552 SUBCHAPTER H

In a KVIA TV newscast posted online at KVIA.com on August 4, 2016 - *Escobar defends decision not to release emails regarding EPPD Chief Allen; Villasana, Joe and Hunt, Darren -*, Veronica Escobar is quoted as stating:


"Many of us were talking on the phone or texting each other" in regards to the comments made by the police chief after the press conference.

The letter to city officials asking them to repudiate Police Chief Greg Allen is signed by thirteen elected officials. Veronica Escobar signed the letter as "County Judge". A copy of the letter is hereby attached as Exhibit A.

Pursuant to the Texas Public Information Act I hereby formally request that the Texas Attorney General compel County Judge Veronica Escobar to submit, for review by the Texas Attorney General's Office, all communications regarding El Paso Police Chief Greg Allen's comments that led to the creation of the July 9, 2016 letter to city officials.

Furthermore, I respectfully request that the Texas Attorney General rule whether the communications held by County Judge Veronica Escobar should be released under the Texas Public Information Act.

Sincerely,



Martin Paredes

Enclosures
Petition Attached

July 9, 2016

Honorable Mayor Oscar Leeser and City Council Representatives:

On July 8th, state, county and law enforcement leaders held a press conference at the El Paso County courthouse to address the murders of Dallas police officers following a peaceful protest. Their goal was to express solidarity with the victims and their families, further the healing process, and highlight the need for reforms to address the racial tensions between law enforcement and minority communities.

That is why we were deeply concerned and disappointed with the statement made by the City of El Paso's Chief of Police, Greg Allen. Chief Allen, who chose not to speak during the press conference, was asked by a reporter afterwards what he had to say to El Pasoans who would be protesting on Sunday as part of the Black Lives Matter movement. His reply was that "Black Lives Matter, as far as I am concerned, is a radical hate group. And for that purpose alone, I think the leadership of this country needs to look a little bit harder at that particular group. The consequences of what we saw in Dallas is [sic] due to their efforts." <http://m.kvia.com/news/eppd-chief-on-black-lives-matter/40427198>

This statement, in the chief's official capacity and in uniform, sends exactly the wrong message at a time when good people are working to address a crisis of violence and distrust that disproportionately affects minority communities. It is ironically out of step with the ongoing reforms the Dallas Police Department itself has been a national leader in - efforts its chief of police has publicly said he remains committed to in spite of the cowardly violence perpetrated in Dallas. Furthermore, what Chief Allen's statement conveys about his attitude towards members of a community that he is sworn to protect raises serious questions about his leadership. It is also a betrayal of the values generations of El Pasoans have stood for.

As you know, El Paso and El Pasoans have long been at the forefront of civil rights. In 1924, a black El Pasoan challenged the refusal of local election judges to allow him to vote in a primary election. The suit went all the way to the U.S. Supreme Court which, in the 1927 landmark case of *Nixon v. Herndon*, unanimously struck down the prohibition, paving the way to the elimination of all-white primaries nationally. In 1957, El Paso elected Raymond Telles mayor, making El Paso one of the first major American cities to be led by a Latino. In 1962, alderman Bert Williams spearheaded an ordinance desegregating public facilities in El Paso, making El Paso the first city in Texas to do so. In 2011, the City of El Paso enacted an ordinance providing benefits to domestic partners of city employees. El Paso County approved a similar provision the following year (only the second county in the state to do so).

The Black Lives Matter movement is about the same values of dignity, equality, and peaceful protest; it was not responsible for the tragedy in Dallas. Chief Allen's statement places El Paso's seal of approval on a sentiment that stands in stark contrast to those values and one that promotes hate itself. That is why we urge you to publicly repudiate the statement, forcefully and unequivocally, and hold Chief Allen accountable for damaging the public trust and bringing disrepute to our community.

Thank you for your leadership during this time of national crisis.

Respectfully,

State Senator José Rodríguez, District 29

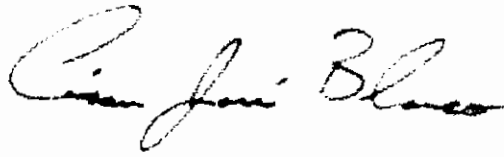
County Judge Veronica Escobar

County Attorney Jo Anne Bernal

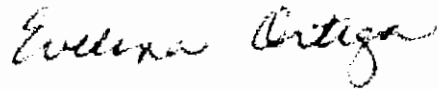
Congressman Beto O'Rourke, District 16

State Representative Joe Moody, District 78

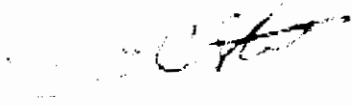
State Representative Mary González, District 75



State Representative César Blanco, District 76



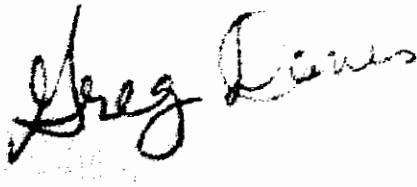
State Representative-Elect Evelina "Lina" Ortega, District 77



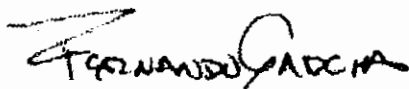
County Commissioner David Stout, Precinct 2



EPISD Trustee Susie Byrd, District 3



Greg Davis on behalf of the El Paso Branch of the NAACP



Fernando Garcia on behalf of the Border Network for Human Rights

A handwritten signature in black ink, reading "Terri Burke". The signature is written in a cursive style with a large, looping initial "T" and a long, sweeping underline.

Terri Burke on behalf of ACLU of Texas

**PETITION TO THE TEXAS ATTORNEY GENERAL ASKING AG TO
INTERVENE ON VERONICA ESCOBAR'S REFUSAL TO SUBMIT RECORDS
FOR INSPECTION UNDER THE TEXAS PUBLIC INFORMATION ACT**

By signing this petition, we hereby request that pursuant to the Texas Public Information Act, the petition signers hereby formally request that the Texas Attorney General compel County Judge Veronica Escobar to submit, for review by the Texas Attorney General's Office, all communications regarding El Paso Police Chief Greg Allen's comments that led to creation of the July 9, 2016 letter to city officials asking that the police chief be sanctioned by the City for his comments about the Black Lives Matter group.

Furthermore, the petition signers respectfully request that the Texas Attorney General rule whether the communications held by County Judge Veronica Escobar should be released under the Texas Public Information Act.

Signatures

Name	Location	Date
Martin Paredes	, United States	2016-08-07
Richard Cormier	El Paso, TX, United States	2016-08-07
David Nevarez	El Paso, TX, United States	2016-08-07
Aldina Rosales	El Paso, TX, United States	2016-08-07
Daniel Lopez, Jr.	El Paso, TX, United States	2016-08-07
Ioanna Barnett	El Paso, TX, United States	2016-08-07
Rey Rivera	El Paso, TX, United States	2016-08-08
Alex Luna	El Paso, TX, United States	2016-08-08
Rene Nevarez	El Paso, TX, United States	2016-08-08
George Salom, Jr.	El Paso, TX, United States	2016-08-08
Hector Montes	El Paso, TX, United States	2016-08-08
Lilia Alvarez	El Paso, TX, United States	2016-08-08
Matthew Garcia	El Paso, TX, United States	2016-08-08
Connie Pena	El Paso, TX, United States	2016-08-08
rosemary martinez	El Paso, TX, United States	2016-08-08
Juan Nevarez	El Paso, TX, United States	2016-08-08
GERALD KURTYKA	EL PASO, TX, United States	2016-08-08
JAMES RATCLIFF	El Paso, TX, United States	2016-08-09
David CONTRERAS	El Paso, TX, United States	2016-08-09
norma Villarreal	el paso, TX, United States	2016-08-09
Adam Weber	Hood River, OR, United States	2016-08-09
Carlos Gamon	El Paso, TX, United States	2016-08-10
Pam Boland	Grovetown, GA, United States	2016-08-10
theresa caballero	El Paso, TX, United States	2016-08-10
felix cruz	Canutillo, TX, United States	2016-08-10
John Castaneda	El Paso, TX, United States	2016-08-10
Norma Fisher-Flores	El Paso, TX, United States	2016-08-10
Lynda Turner-Kreiner	El Paso, TX, United States	2016-08-11
Willie cintron	El Paso, TX, United States	2016-08-14
Eddie Gamboa	El Paso, TX, United States	2016-08-14

Name	Location	Date
Gerardo Ornelas	El Paso, TX, United States	2016-08-14
Marisela Rodriguez	El Paso, TX, United States	2016-08-14
Marco Gallegos	El Paso, TX, United States	2016-08-14
John Fattorini	El Paso, TX, United States	2016-08-14
Ibiza Nicolosi	El Paso, TX, United States	2016-08-14
Michael Lawson	El Paso, TX, United States	2016-08-14
Jana Moore	El Paso, TX, United States	2016-08-14
Lupe Arzola	El Paso, TX, United States	2016-08-14
Alberto Payan	El Paso, TX, United States	2016-08-14
Edna Martinelli	El Paso, TX, United States	2016-08-14
Alejandro Cossio	El Paso, TX, United States	2016-08-14
Mark Carder	El Paso, TX, United States	2016-08-14
Jessie Morin	El Paso, TX, United States	2016-08-15
Iliana Guzman	El Paso, TX, United States	2016-08-15
Bert Avila	El Paso, TX, United States	2016-08-15
Omar Iglesias	El Paso, TX, United States	2016-08-15
Susan Mucha	El Paso, TX, United States	2016-08-15
Alex Aguilar	El Paso, TX, United States	2016-08-15
glenn Villalobos	El Paso, TX, United States	2016-08-15
cindy morales	El Paso, TX, United States	2016-08-16
Cindy Morales	El Paso, TX, United States	2016-08-16
Ana Heredia	El Paso, TX, United States	2016-08-16
Angelique Caire	El Paso, TX, United States	2016-08-16
Luis Iglesias	El Paso, TX, United States	2016-08-16

Comments

Name	Location	Date	Comment
David Nevarez	El Paso, TX	2016-08-07	El Paso deserves official elected or otherwise who embrace accountability. Judge Escobar does not effectively represent that by her unwillingness to do so.
Aldina Rosales	El Paso, TX	2016-08-07	Public officials should abide by any and all laws that apply to them. They serve the people who vote for them and this is what voters need to ensure transparency
Jerry Kurtyka	El Paso, TX	2016-08-08	I am sick of government secrecy in El Paso.
James Ratcliff	El Paso, TX	2016-08-09	The current political system and government structure that is the county of El Paso is illegitimate, and the current "officials" from county state and EPISD board are using their supposed "authority" to intimidate and pressure the mayor of El Paso to reprimand or even remove the Chief of Police for freedom of speech. By using non-transparency, these government bullies refuse to follow their oath of office and violate ethics and open meetings laws.
felix cruz	Canutillo, TX	2016-08-10	we need some one new
Lynda Turner-Kreiner	El Paso, TX	2016-08-11	escobar needs to go!
Willie cintron	El Paso, TX	2016-08-14	Tired of the anti-corrupter's corruption.
Eddie Gamboa	El Paso, TX	2016-08-14	Transparency is key to democratic process.
Gerardo Ornelas	El Paso, TX	2016-08-14	They are not running the city, for the benefit of the people only, for themselves, they don't remember that they are PUBLIC SERVER'S, to serve the people
John Fattorini	El Paso, TX	2016-08-14	Our government needs to be transparent and, frankly, I'm tired of the shady dealings and warped perception
ibiza Quiroz	Plano, TX	2016-08-14	If they have nothing to hide then they have nothing to worry about
Michael Lawson	El Paso, TX	2016-08-14	Veronica Escobar, feels that she is above the law, as did her predecessor. As an employee of the people, they should be held to the highest of standards.
Jana Moore	El Paso, TX	2016-08-14	If veterans are living in the streets, having to go to soup kitchens and food pantries, and unable to afford privatized healthcare in the days of the VA scandals, the government owes it to our citizens, past and present, to be more concerned with it's citizens and veterans than with lining the pockets of it's politicians.
Lupe Arzola	El Paso, TX	2016-08-14	I'm unemployed and the city can increase my taxes but they get a big salary! NO!
Alejandro Cossio	El Paso, TX	2016-08-14	Its out right as a citizen and they are elected by my vote.
Jessie Morin	El Paso, TX	2016-08-15	There is no need for them to get a pay increase for what they don't need it.. what they need to do is pay teachers more
Omar iglesias	El Paso, TX	2016-08-15	The raise should be put for voter approval
Susan Mucha	El Paso, TX	2016-08-15	I think the County Commissioners' Court is out of control. We definitely need more transparency and accountability.
Alex Aguilar	El Paso, TX	2016-08-15	Accountability is key and we have the right to hold people accountable. No harm no foul....truth always comes out!
cindy morales	El Paso, TX	2016-08-16	Because elected officials are supposed to be looking out for the best interests of their constituents, Veronica Escobar and some of the other commissioners are in it for the money.
Ana Heredia	El Paso, TX	2016-08-16	Why exactly do they deserve a raise ?

Name	Location	Date	Comment
Angelique Caire	El Paso, TX	2016-08-16	N/a
Luis Iglesias	El Paso, TX	2016-08-16	ENOUGH OF THE CORRUPTION IN OUR COUNTY OFFICIALS AND WE DEMAND TRANSPERANCY.