



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 10, 2018

San Antonio Police Department
315 S. Santa Rosa Ave.
San Antonio, TX 78207

Chief William McManus
315 S. Santa Rosa Ave.
San Antonio, TX 78207

City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

San Antonio City Council
P.O. Box 839966
San Antonio, TX 78283-3966

San Antonio City Manager, Sheryl Sculley
P.O. Box 839966
San Antonio, TX 78283-3966

San Antonio City Attorney Andy Segovia
P.O. Box 839966
San Antonio, TX 78283-3966

San Antonio Mayor Ron Nirenberg
P.O. Box 839966
San Antonio, TX 78283-3966

ALSO VIA E-MAIL

RE: December 23 incident involving release of suspected illegal aliens

To William McManus, the City of San Antonio, the San Antonio Police Department, City Manager Sheryl Sculley, City Attorney Andy Segova, and the San Antonio City Council:

Several citizens have filed complaints with the Texas Attorney General's Office regarding an incident on December 23 involving the release of numerous suspected illegal aliens.

The Texas Attorney General's Office will investigate these complaints and the procedure in Senate Bill 4 contemplates litigation. As a result, we demand that you affirmatively preserve all relevant materials.

Preservation Obligations and Demand

This demand requires that you affirmatively preserve, and not delete, hide, destroy, misplace, abandon, or allow the destruction of documents and materials of all kinds, including without limitation all communications, including but not limited to: text messages, instant messages, electronic mail ("email"), voicemails, phone logs, calendars, meeting notes, any recordings, letters, memoranda, draft memoranda, reports, draft reports, articles, draft articles, press statements, draft statements, photographs, still images, illustrations, transcripts, audio recordings, and video recordings, among other types of documents and/or communications. This includes but is not limited to information on any personal cell phones, personal emails, personal text messages, and other personal communications with any recipient of this letter, any police officer, or any other individual involving the incident.

In addition, this demand requires that you affirmatively preserve the following items including but not limited to:

- **Records of all officers involved in the incident in question;**
- **Any video or audio recordings of the incident in question, including but not limited to, body camera recordings, police vehicle recordings, and surveillance recordings from police headquarters inside or outside of the building regarding the incident and the individuals in question;**
- **Office and personal phone records of the police chief, first assistant police chief, and any other officer involved in the incident;**

- **Any orders of the police chief to any subordinate officer regarding the incident or individuals in question.**

You are required by the Texas Rules of Civil Procedure to preserve all information, including but not limited to documents and communications, related to the incident and any response(s) thereto.

Furthermore, Texas law requires you to preserve all potentially relevant information and sources of potentially relevant information.

Preserve Potentially Relevant Information and Sources of Potentially Relevant Information

This demand also requires that you preserve all hard drives, electronic storage spaces, servers, backup tapes in your possession, custody or control that could contain any of the documents or materials discussed anywhere within this correspondence.

We anticipate that most of the information that needs to be preserved will be stored on digital devices such as your computer system and other media, including but not limited to online databases, storage spaces, cell phones, tablets, desktops, and laptops.)

You must preserve electronically stored information (“ESI”) and give it the broadest possible definition, which includes but is not limited to potentially relevant information electronically, magnetically, or optically stored such as: digital communications, word processed documents, writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or compilations.

Similarly, you must preserve all documents and other tangible items relevant to the incident or about the incident. Officers, employees, council members, or others may use personal web-based email accounts or services such as Google Mail (“Gmail”), Outlook, or the like, to send and receive potentially relevant information. You should preserve messages, attachments, instant messages, and the contents of these accounts, including various mailboxes (including but not limited to Sent, Deleted, Archived, or Primary mailboxes).

You must also ensure that you capture and preserve sources of potentially relevant information including but not limited to: portable drives (such as those employed on portable cameras), laptops, tablets, camera drives, camera cards,

storage cards, memory cards, USB drives, “thumb drives,” SSD cards, and any other source used to store potentially relevant information.

We suggest that you remove the media, devices, or systems of anyone with sufficient knowledge or information of the incident in order to sequester and protect the information, as a safe and cost-effective preservation step. We also suggest that you preserve all potentially relevant information or sources of potentially relevant information through the use of forensically sound imaging procedures in order to ensure that information is not lost or corrupted due to your lack of diligence. Paper preservation is inadequate: it may not contain metadata or other potentially relevant information that you must preserve. Information must be preserved in its native format without tampering or alteration, even unintentional alteration.

Additional Preservation Duties and Scope

You must preserve all potentially relevant information and sources of information that are within your possession, custody, control, care, or authority. This includes information that may be in the possession of others, such as agents or employees, former agents or employees, attorneys, custodians, contractors, and any other third parties who may possess potentially relevant information or sources of potentially relevant information.

You must also preserve information that is *potentially* relevant, without regard to whether such information will be produced. Your duty extends beyond the scope of what you may or may not deem relevant, but instead you must preserve all *potentially* relevant information and all sources thereof.

Preservation Requires Immediate Action

You must act immediately to preserve potentially relevant information. You must intervene to ensure, for example, that routine deletion or destruction of potentially relevant information does not occur. You must ensure necessary protocols in order to guard against the potential deletion or compromise of potentially relevant information.

You must immediately issue a litigation hold for all potentially relevant information, ESI, documents and tangible things. You must act immediately and in good faith in order to secure compliance with this litigation hold.

You must immediately halt any and all destruction of documents or information in the ordinary course of business, such as through automatic deletion of emails, hard drives, voicemails, or the like. You must also prevent corruption or disruption of this data, such as through alteration of its contents. Alteration may occur via overwriting, erasing, fragmenting (or defragmentation), reassigning spaces, metadata erasure or removal, such as through programs, or other means. You must act now to prevent any such alteration.

Furthermore, you must act now to ensure that individuals do not seek to hide, delete, or destroy materials. Individuals may find that legally relevant information may be either embarrassing or inculpatory and seek to destroy that information. This is commonplace rather than unique, easily anticipated, and requires your **immediate** attention in order to guard against the destruction of potentially relevant information.

Do not delay preservation.

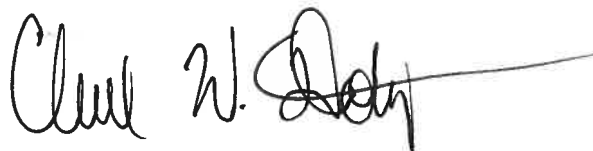
Confirm Your Compliance

Please confirm to us, in writing, no later than January 15, 2018, that you will comply with all of the above instructions and duties, and that you have taken the outlined steps in order to preserve ESI and tangible documents potentially relevant to this dispute.

If you refuse to uphold your duties and preserve the information as required, or have taken other steps, please describe what you have done in order to preserve potentially relevant evidence.

As you should be aware, this letter cannot substitute for and is not intended to serve as a full or complete statement of all relevant facts or information that are relevant to the potential dispute. This letter serves to warn you of your duty to preserve all relevant information pending an imminent, statutorily-mandated investigation.

Sincerely,

A handwritten signature in black ink, appearing to read "Cleve W. Doty", with a long horizontal line extending to the right.

Cleve W. Doty

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