

Carlos León 3-7-17

Executive Summary

The exact nature of my complaints against Capital METRO Transit Authority (CAP METRO) Board Members, Security Directors, and select employees & drivers is described in detail in the following 71-page document.

Relevant facts, evidence, Texas Penal Code, case law, and Texas/U.S. Constitutional law are explicitly stated and cited throughout the document.

The document's outline is as follows:

p. 1 Basic Information

- p. 1 - Criminal Trespass Notification
- p. 1 - Criminal Trespass Notification Warning
- p. 2 - No legal ground for Criminal Trespass
- p. 2 - Neither letter documents any violation of CAP METRO policy by me
- p. 3 - Coyote CAP METRO crossed the legal line

p. 4 Legal Analysis

- p. 4 - Innocent until proven guilty
- p. 5 - Capital Metro Transit Authority (CAP METRO) is the State
- p. 6 - CAP METRO has the legal burden of proof
- p. 6 - CAP METRO did not meet the legal burden of proof
- p. 6 - CAP METRO's Criminal Trespass Notification is bogus
- p. 9 - Simulating a legal process
- p. 12 - Unlawful restraint
- p. 13 - Official oppression
- p. 15 - Abuse of official capacity



Legal Analysis (cont'd)

- p. 16 - Retaliation
- p. 19 - Retaliation by CAP METRO Board Members and Interim Security Director John Jones
- p. 20 - Retaliation by CAP METRO Security Employee Sergio Rodriguez
- p. 20 - Retaliation by CAP METRO former Security Director David Martin
- p. 22 - Retaliation by CAP METRO drivers

Exhibits

- p. 23 - Exhibit A - January 23, 2017 Criminal Trespass Notification letter
- p. 24 - Exhibit B - July 25, 2016 Criminal Trespass Notification Warning letter
- p. 25 - Exhibit C - November 7, 2016 letter from Carlos León to Texas Attorney General Paxton
- p. 32 - Exhibit D - October 18, 2016 letter from Carlos León to Texas Attorney General Paxton

Carlos León

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Basic Information

Criminal Trespass Notification

February 27, 2017 at about 11:39 AM in the parking lot at CAP METRO headquarters at 2910 E. 5th St. Austin, TX immediately prior to the 12:00 PM CAP METRO Board Meeting, Austin Police Department Sergeant Randy Villanueva (#3786) and CAP METRO Security Specialist Israel Herencia handed me a Criminal Trespass Notification letter dated January 23, 2017, allegedly from John W. Jones, CAP METRO's interim Director of Security, that said I was not allowed for six months to be on the premises of the CAP METRO Headquarters Building, effective immediately, and that if I was found on the premises during that time, I would be charged with Criminal Trespass per Texas Penal Code 30.05 (See Exhibit A).

Criminal Trespass Notification Warning

According to the January 23, 2017 letter, my conduct at the Capital Metro Board of Directors meeting on January 23, 2017 in the Capital Metro Headquarters Building violated the July 25, 2016 Criminal Trespass Notification Warning letter handed to me that day by former CAP METRO Director of Security David Martin. (See Exhibit B).

No legal ground for Criminal Trespass

However, the January 23, 2017 letter does not specify the January 23, 2017 violating conduct or the January 23, 2017 violation of the July 25, 2016 letter, meaning no legal ground for the 6-month ban from The CAP METRO Headquarters Building is explicitly stated in the January 23, 2017 letter.

Neither letter documents any violation of CAP METRO policy by me.

The January 23, 2017 letter also said that I was advised July 25, 2016 that any further rules violation of CAP METRO policy would result in my immediate removal from all CAP METRO property for a period of 6 months.

However, that statement is only partially true. The July 25, 2016 letter actually says "any further rules violation of Capital Metro policy will result in your (my) immediate removal from all Capital Metro property and vehicles for a period of six months."

Therefore, because CAP METRO is trying to ban me for six months from the CAP METRO Headquarters Building only, not the other CAP METRO properties or any of their vehicles, I logically did not commit any further rules violation of CAP METRO policy on January 23, 2017.

In fact, though the July 25, 2016 phrase "any further rules violation of Capital Metro Policy" implies I violated CAP METRO policy prior to July 25, 2016, no such violation is explicitly stated in the July 25, 2016 letter either.

Therefore, CAP METRO is using the July 25, 2016 Criminal Trespass Notification Warning as the first legal step against me for the January 23, 2017 Criminal Trespass Notification to be the second legal step against me, though neither letter documents any violation of CAP METRO policy by me.

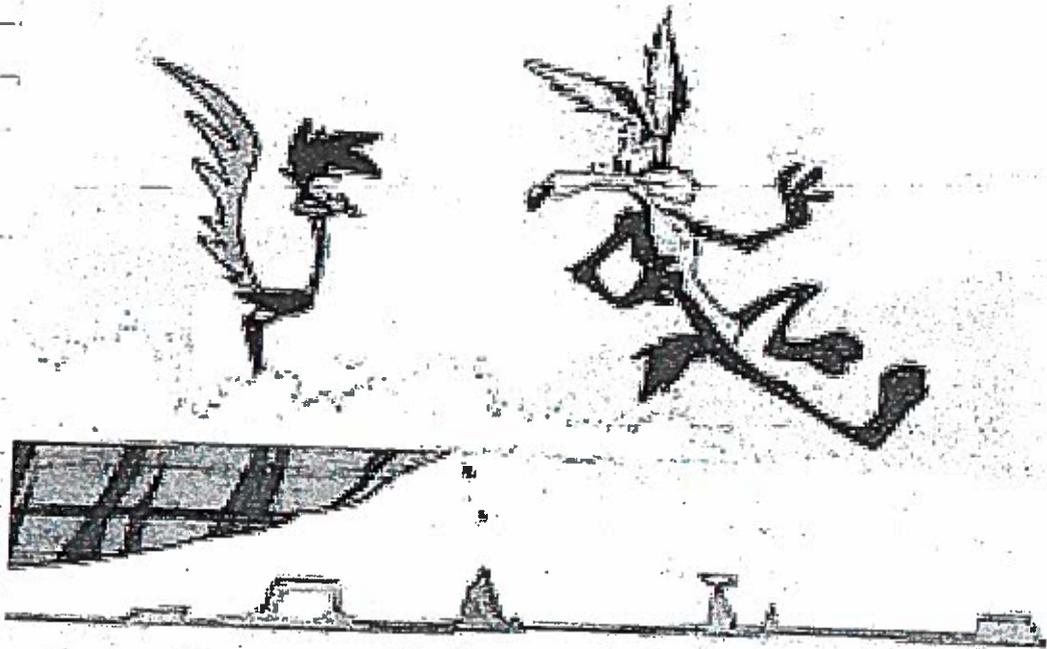
Coyote CAP METRO crossed the legal line

Therefore, CAP METRO has acted like Wile E. Coyote, repeatedly trying to catch me, the Road Runner, doing wrong to force me ~~out~~ over a legal cliff to legally remove me from CAP METRO property and vehicles to legally silence me and stop serving me.

However, like the cartoon, I'm the one standing on solid legal ground; it's Coyote CAP METRO that's repeatedly crossed the legal line, repeatedly running itself over the legal ledge on nothing but hot air to convince you and me that it's right, when in reality it's wrong.

Just like the laws of physics caught up with Wile E. when he looked down and saw where he really was,

So will the Constitutional laws of Texas and the United States of America legally pull Coyote (AP METRO's Board of Directors and Interim Security Director ^{down}) to the desert floor based on their own words and actions.



Legal Analysis

Innocent until proven guilty

In Texas, all persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt (Texas Penal Code 2001).

Therefore, the presumption of innocence for every

accused person means an assumption which prevails as the judgment of the law until the contrary is proven (Johnson v. State).

Though the burden of proof is sometimes on the defendant, it's usually with reference to special matters like nange and insanity and never until the State has overcome the presumption of innocence and reasonable doubt (Hawkins v. State).

Therefore, the State has the burden to prove beyond reasonable doubt each element of the offense with which the defendant is charged (Vantil v. State).

Therefore unless and until that burden is met, I am legally empowered and protected to exercise all my Rights, including my freedom of movement ~~and~~ and freedom of ~~speech~~ speech, to the maximum extent permitted by law, without restriction.

Capital Metro Transit Authority (CAP METRO)
is the State

Chapter 451 of the Texas Transportation Code is titled METROPOLITAN RAPID TRANSIT AUTHORITIES. Said Code 451.052(C)(1)(3), and (a)(2) say an authority is a governmental unit exercising public government functions and is a public political entity.

Texas Penal Code 1.07(a)(2)(A) says "Government" means the State. Therefore, Capital Metro Transit Authority (CAP METRO) is the State.

CAP METRO has the legal burden of proof

Therefore, CAP METRO has to overcome my presumption of innocence and reasonable doubt (Hawkins v. State) and CAP METRO has to prove beyond reasonable doubt each element of the offense with which the defendant is charged (Vannil v. State).

CAP METRO did not meet the burden of proof

However, not only has CAP METRO not proved beyond reasonable doubt each element of the violation, I, the quasi-defendant, am falsely accused, CAP METRO has not proven anything, stated any specific violation, or specified any conduct that caused the alleged violation.

CAP METRO's Criminal Trespass Notification is bogus

Yet, CAP METRO used all that nothingness to falsely justify an unlawful Criminal Trespass Notification. In fact, the Criminal Trespass Notification is bogus on its face, too, because:

- 1) It's addressed to "Mr. Carlos De Leon," not Mr. Carlos León;
- 2) Paragraph 3 does not state the date from

which the unlawful 6-month banning starts - it's blank;

3) Though Paragraph 1 says, "This is to officially notify you..." John W. Jones did not sign his "official" notification, per his typed name at the bottom, meaning he did not authenticate it because "signature" is understood as the art of putting down a man's name at the end of the instrument to attest its validity (Wade v. State).

In contrast, former CAP METRO Security Director David Martin appeared to sign his July 25, 2016 letter, despite all its problems (See Exhibit B);

4) At the bottom of the letter, Jones calls CAP METRO the "Capital Metro Transportation Agency," though legally it is the Capital Metro Transit Authority;

5) When APD Sergeant Randy Villanueva (#3786) and CAP METRO Security Specialist Israel Heredia handed me the January 23, 2017 letter on February 27, 2017 at 11:39 AM, Sergeant Villanueva did not write up an official Criminal Trespass Warning for me to sign and to enter into APD's official record system for APD to reference to formally, and legally, charge me with Criminal Trespass in the future, if legal & necessary, per →

standard operating procedure.

And the fact that neither the July 25, 2016 letter (Criminal Trespass Notification Warning) nor the January 23, 2017 letter (Criminal Trespass Notification) actually says "Criminal Trespass Warning," shows CAP METRO knows they have no legal ground to issue me an actual, legal ~~actual~~ Criminal Trespass Warning much less ~~actually~~ actually and legally charge me with Criminal trespass.

Therefore, the January 23, 2017 letter only appears to be a Criminal Trespass Warning and the fact that when APD Sergeant Villanueva and CAP METRO Security Specialist Heredia handed it to me they told me it was effective immediately made it appear that they would enforce it immediately if I chose to walk toward the front door of CAP METRO Headquarters.

However, per Texas law, it is actually not a Criminal Trespass Warning and neither APD nor CAP METRO can legally enforce that unlawful document. Altogether, the January 23, 2017 letter, the July 25, 2016 letter, and the interaction with APD Sergeant Villanueva and CAP METRO Security Specialist Heredia simulated a legal process.

Simulating a legal process

Per Texas Penal Code 32.40 (a)(2)(A, B), a person commits an offense if the person recklessly causes to be delivered to another any document that simulates a complaint, judgment, or other court process with the intent to cause another to submit to the putative authority of the document; or refrain from taking any action in response to the document in compliance with the document, or on the basis of the document.

In determining whether a document simulates a legal process, a court should ~~examine~~ examine all relevant facts in the context of the totality of the circumstances; after reviewing each relevant factor, the court must consider whether a similarly situated reasonable person who received the document would believe that it was legal process (*Runingwolf v. State*).

A non-exhaustive list of factors to determine whether a document simulates legal process includes: (1) the use of terms commonly used in litigation and citation to legal authority, (2) the method of delivery, (3) the presence of a demand or directive, (4) the nature of any demand or directive, (5) the document's internal characterization of its import, and (6) the presence and extent of formalities generally associated with process (*Runingwolf v.*

State).

Applying that non-exhaustive list of factors to the January 23, 2017 letter:

(1) the use of terms commonly used in litigation

- "officially notify," "violated," "criminal trespass," "warning," "violation," "notified," "disorderly conduct," "charged," "Texas penal code," "removal"

(2) Citation to legal authority

- Texas Penal Code 30.05 CRIMINAL TRESPASS, was stated verbatim

(2) the method of delivery

- The letter was hand delivered to me on the premises of CAP METRO headquarters at 2910 E. 5th St. Austin, TX by APD Sergeant Villanueva and CAP METRO Security Specialist Heredia

(3) the presence of a demand or directive

- the letter said, "You are hereby notified that you are NOT allowed on Capital Metro's property at 2910 E. 5th Street for 6 months from."

(4) the nature of any demand or directive

- the letter said, "Should you be found on the premises of Capital Metro headquarters building located at 2910 E. 5th you will be charged with Criminal Trespass."

Therefore, the nature of the directive was restrictive and punitive.

(5) the document's internal characterization of its import

- the letter appears to be written on CAP METRO letterhead by John Jones, Interim Security Director of CAP METRO

(6) the presence and extent of formalities generally associated with process

- The January 23, 2017 letter references the similar looking July 25, 2016 letter and was handed to me in person on site by an APD Sergeant and CAP METRO Security Specialist.

Then the three of us had a brief discussion about the letter, its directive, and its lack of specifics with respect to conduct and violation.

Then the two of them stayed on site long

enough to watch me leave the premises.

However, during that discussion, Sergeant Villanueva compared being booted from CAP METRO headquarters to being asked to leave the corner market across the street, where the owner can refuse service to anyone.

That comparison was false and misleading because the market is a private business, but CAP METRO is a public, government entity, meaning CAP METRO cannot legally restrict my access to its open meetings on its property without just, legal cause, which it has never shown, much less proved.

Therefore, based on Texas Penal Code 32.48(a)(2)(A, B), relevant case law, and the cited facts Texas law was broken because a legal process was simulated to unlawfully restrain me.

Unlawful restraint

Per Texas Penal Code 20.01(1), (A), & 20.02, a person commits an offense if he intentionally or knowingly restrains another person. "Restrain" means to restrict a person's movements without consent, so as to interfere substantially with the person's liberty. Restraint is "without consent" if it is accomplished by deception. That liberty interference is by moving the person from one place to another or by confining the person.

Banning me from CAP METRO Headquarters for 6 months is knowingly restraining me because that action would restrict my movement without consent, so as to interfere substantially with my liberty to be at 2910 E. 5th St. Austin, TX by using the deception of simulating a legal process to unlawfully restrain me to officially oppress me.

Official Oppression

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

Because CAP METRO is a governmental unit, CAP METRO employees + Board members are public servants, per Texas Penal Code 1.07.

Therefore, per his name at the end of the January 23, 2017 letter, implying he wrote it and was acting on behalf of the CAP METRO Board, Mr. John Jones, Interim Director of Security, is a public servant acting under color of his office or

Employment by acting or purporting to act in an official capacity to intentionally deny me the exercise of my Constitutional rights to attend and speak freely at the CAP METRO Board Meetings held at 2910 E. 5th St. Austin, TX to participate in those monthly open meetings to the maximum extent permitted by law, Constitutionally guaranteed & protected by Texas Government Code 551.002, Texas Civil Practice & Remedies Code 27.002, and U.S. Constitution - 1st, 9th, & 10th Amendments

Therefore, by trying to deprive me of my liberties, Mr. Jones is violating the Due Process clause in the U.S. Constitution's 5th Amendment, which says, "No person shall be deprived of liberty without due process of law," the U.S. Constitution's 14th Amendment, which says, "No State shall deprive any person of liberty without due process of law," and Texas Constitution's Art. I, Section 19, which says, "No citizen of this State shall be deprived of liberty, or in any manner disenfranchised, except by the due course of the law of the land."

He also is ~~violating~~ trying to violate the Equal Protection clause in the U.S. Constitution's 14th Amendment, which says "No State shall deny to any person within its jurisdiction the equal protection of the laws."

Therefore, Mr. Jones is trying to officially oppress me.

In addition, during the February 27, 2017 brief conversation between me & APD Sergeant Villanueva & CAP METRO Security Specialist Heredia, I directly asked Mr. Heredia if the CAP METRO Board knew about this letter allegedly banning me from ~~the~~ 2910 E. 5th St Austin, TX for 6 months and he replied that they did.

Therefore, if Mr. Heredia told the ~~the~~ truth, because CAP METRO Board Members are responsible for the management, operation, and control of CAP METRO Transit Authority and its property, per Texas Transportation Code 451.053 Wade Cooper, Beverly Silas, Rita Jansé, Terry Mitchell, Delia Garza, Ann Kitchen, Sabino Renteria, & Linda Watson, as well as Mr. Jones, have abused their official capacity by simulating a legal process to officially oppress and unlawfully restrain me.

Abuse of official Capacity

Per Texas Penal Code 39.02(a)(1,2), a public servant commits an offense if, with intent to harm or defraud another he intentionally or knowingly violates a law relating to the public servant's office or employment; or

misuses government personnel. Per Texas Penal Code 1.07 (25), "harm" means anything reasonably regarded as loss.

Therefore, because Wade Cooper, Beverly Silas, Rita Jense, Terry Mitchell, Delia Garza, Ann Kitchen, Sabino Renteria, Linda Watson, & John Jones allegedly used APD Sergeant Randy Villanueva and CAP METRO Security Specialist Israel Hernandez to try defrauding me by intentionally or knowingly simulating a legal process to ban me for 6 months from where the monthly CAP METRO Board Meetings take place to unlawfully restrain me from attending & speaking at those meetings in person to officially oppress me by stopping me from addressing them in person publicly; and on the record during Citizen Communication, to speak out against documented unlawful behavior by their drivers & staff, to lose my opportunity to participate to the maximum extent permitted by law, they have clearly abused their official capacity to retaliate against me.

Retaliation

Per Texas Penal Code 36.06 (a)(1)(A), a person commits an offense if he intentionally or knowingly threatens to harm another by an unlawful act in retaliation for the service or status of another as informant.

Per Texas Penal Code 36.06(b)(2), "Informant" means a person who has communicated information to the government in connection with any government function.

Per Texas Civil Practice & Remedies Code 27.002, one purpose of the Texas Citizens Participation Act is to encourage and safeguard the Constitutional rights of persons to speak freely to participate in government to the maximum extent permitted by law.

Per Texas Civil Practice & Remedies Code 27.001(3), (4): "Exercise of the right of free speech" means a communication made in connection with a matter of public concern, and "communication" includes the making or submitting of a statement or document in any form or medium.

Therefore, speaking directly to the CAP METRO Board of Directors during Citizen Communication during their monthly meetings about unlawful behavior by CAP METRO drivers & staff while on the job, documented with CAP METRO per CAP METRO policy & procedure, is a government participation action.

And the purpose of the criminal trespass statute is not to regulate speech, but punish activities that are not constitutionally protected (*Citwell v. State*; *Bader v. State*).

However, per Constitutional law, most speech is Constitutionally protected even if it's frightening, as long as it does not fall outside of the scope of the First Amendment, like a threat - a declaration of intention or determination to inflict injury (Planned Parenthood of Columbia/Willamette Inc. v. American Coalition of Life Activists).

In fact, expressions of anger, outrage, or indignation play an indispensable role in the dynamic public exchange safeguarded by the First Amendment's free speech guarantee (Spitzer v. Operation Rescue National). Insults that contain neither threats or coercion that intimidate nor fighting words that create possibility of imminent violence must be tolerated (Pro Choice Network of Western New York v. Scherck). Further, the First Amendment protects speech which is uninhibited, robust, wide-open, vehement, caustic, and sharp as well as villifies (Baca v. Moreno Valley Unified School District).

Therefore, what I say & how I say it at CAP METRO's Board Meetings is legal & Constitutionally protected.

That's why the January 23, 2017 letter cites my conduct at the January 23, 2017 Board Meeting as the trigger for the bogus 6-month ban because Jones & the Board

Members know my speech there does not fall outside the scope of the First Amendment because I did not declare an intention or determination to inflict physical injury on anyone.

Yet, my conduct there was lawful, too - that's why no specific conduct or CAP METRO violation is cited in either the January 23, 2017 letter or the July 25, 2016 letter.

That truth is critically important for the Austin Police Department & CAP METRO's Security team because the Texas Criminal Trespass Statute does not grant unfettered discretion to those enforcing the statute to remove someone "regardless of reason" (Bader v. State).

Retaliation by CAP METRO Board Members & Interim Security Director John Jones

Therefore, because they have no legal ground to charge me with Criminal Trespass, Jones & the CAP METRO Board Members allegedly simulated the legal process of a Criminal Trespass warning to unlawfully ban me from CAP METRO headquarters to unlawfully stop me from speaking at Citizen Communication during CAP METRO Board Meetings.

Because that's intentionally or knowingly threatening to harm me by an unlawful act in retaliation for my service or status as informant, that's

retaliation - a 3rd degree felony per Texas Penal Code 36.06.

Retaliation by CAP METRO Security Employee - Sergio Rodriguez

In fact, this retaliatory act echoes the one from October 31, 2016 by CAP METRO Security employee Sergio Rodriguez, who said: "We should put a trace on this guy so we can get a Criminal Trespass on him, turning in those bogus reports," to unlawfully ban me from the CAP METRO Transit Store to unlawfully stop me from handing in true, merited quality control complaints against CAP METRO drivers + employees, violating CAP METRO policy + procedure, Austin Transportation Code 13-2-132, and/or Texas/U.S. Constitutional law to legally hold them accountable for their words + actions while on duty. See Exhibit C for more details.

Retaliation by CAP METRO former Security Director - David Marth

Before those retaliatory acts were the ones allegedly committed by CAP METRO's former Security Director, David Marth.

Per CAP METRO's legal counsel letter to Texas Attorney General Ken Paxton, dated July 18, 2016, Mr. Marth submitted an affidavit to set out reasons for security concerns about me to falsely portray me a substantial threat of

physical harm to CAP METRO drivers to deny me requested public information about a CAP METRO driver who repeatedly tried unlawfully restraining me to ~~also~~ unlawfully refuse me service.

Because an affidavit is a statement of fact which is sworn to as the truth (Vaughn v. State), Martin's false statements on his affidavit, evidenced by the July 18, 2016 letter, constitute perjury because a person commits that offense if, with intent to deceive and with knowledge of the statement's meaning, he makes a false statement under oath or swears to the truth of a false statement previously made and the statement is required or authorized by law to be made under oath, per Texas Penal Code 37.02(a)(1).

Therefore, by intentionally or knowingly threatening to harm me by perjury to unlawfully deny me the public information I legally requested, and have the legal right to acquire, and by simulating a legal process (See Exhibit B) toward unlawfully removing me from CAP METRO property & vehicles for my service or status as informant, Martin retaliated against me.

For example, in the July 18, 2016 letter to Attorney General Paxton, Martin allegedly claimed that virtually all of the more than 600 complaints I filed with CAP METRO through the end of

March 2016 have been found to be without merit. However, the truth is the exact opposite; virtually all of my complaints are merited. See Exhibit D for details, pages 13-18.

Retaliation by CAP METRO drivers

Many of those complaints document drivers committing unlawful restraint, abuse of official capacity, official oppression, and/or simulating a legal process against me to restrict or deny me one or more of my civil rights, like the rights to board, ride, and exit the bus when, where, and how I choose, following ~~the~~ Constitutional law and CAP METRO policy & procedures.

Therefore, when a driver intentionally or knowingly threatened to harm me by one or more of those unlawful acts in retaliation for my service or status as informant to CAP METRO, that driver committed retaliation against me. See Exhibit D, pages 7-9 for many specific examples of behaviors documented repeatedly with CAP METRO, in writing, under the pseudonym Mr. Anon Y Masc.



Exhibit A



METRO

January 23rd 2017

To: Mr. Carlos De Leon (1)

Subject: Criminal Trespass Notification (5)

This is to officially notify you that your conduct at the Capital Metro Board of Directors meeting on January 23rd 2017 in the Capital Metro Headquarters building located at 2910 E. 5th Street in Austin, Travis County, TX violated the Criminal Trespass Notification warning letter issued to you personally on July 25, 2016, by former Director of Security David Martin.

You were advised on that day that any further rules violation of Capital Metro Policy will result in your immediate removal from all Capital Metro property for a period of 6 months and, any further violations during the six-month timeframe will increase removal to one year from original date of violation. You were also to refrain from disorderly conduct on any Capital Metro vehicles, Capital Metro Operators and/or Personnel and follow all instructions given for your safety and the safety of those about you.

You are hereby notified that you are not allowed on Capital Metro's property at 2910 E. 5th street for 6 months from (2) and, should you be found on the premises of Capital Metro headquarters building located at 2910 E. 5th you will be charged with Criminal Trespass as outlined in the excerpted Texas penal code provision listed below.

Sec. 30.05. CRIMINAL TRESPASS. (a) A person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle, without effective consent and the person:

- (1) had notice that the entry was forbidden; or
- (2) received notice to depart but failed to do so.

(b) For purposes of this section:

- (1) "Entry" means the intrusion of the entire body.
- (2) "Notice" means:

- A) oral or written communication by the owner or someone with apparent authority to act for the owner;
- B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock;
- C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

John W. Jones (3)

Capital Metro Transportation Agency (4)

Director of Security (interim)RSC (Rail Security Coordinator)

Exhibit B

So, standing or sleeping results in six-month removal from CAP METRO vehicles and property? Ridiculous.



METRO

July 25, 2016

To: Mr. Carlos De Leon

Subject: Criminal Trespass Notification Warning

This is to advise you that any further rules violation of Capital Metro Policy will result in your immediate removal from all Capital Metro property and vehicles for a period of six months. Any further violations during the six month timeframe will increase removal to one year from original date of violation. You will also refrain from disorderly conduct on any Capital Metro vehicles, Capital Metro Operators and/or Personnel and follow all instructions given for your safety and the safety of those about you.

Please pay particular attention to the following rules:

- Share the ride and do not take up more than one seat.
- Do not block vehicle doorways; riders entering and exiting need room to pass.
- When boarding and exiting, do not cross in front of the vehicle.
- Riders who fall asleep while riding are at risk of being injured from unexpected vehicle movement or stops.
- Standing is only permitted when there are no seats available; do not block the walkway when standing.
- Stand behind the white or yellow line at the entrance of vehicles.
- Belongings must be maintained on your lap or at your feet.
- Items may not block aisles, obstruct seats, or be left unattended.
- Priority seating at the front of vehicles is reserved for seniors and riders with disabilities.
- Disruptive behavior is not allowed, including: loud conversation, profanity, insults, threats, horseplay, or fighting.
- Riders without a valid fare may be asked to de-board.
- It is strictly prohibited to interfere with the operation of a vehicle, including talking to the bus operator while the vehicle is in motion.

concern, not a rule; cannot be punished

If you have questions, contact Capital Metro Customer Service at (512) 474-1200.

Thank you,

David Martin

David Martin
Capital Metro Director of Security

39 of 40

Exhibit C

Carlos León

November 7, 2016

Via Certified Mail

Re: Attorney General ID #626699

The Honorable Ken Paxton
 Attorney General of the State of Texas
 209 West 14th, 6th Floor
 Austin, TX 78761

Attention: Open Records Division
 Gerald A. Arismendez
 Assistant Attorney General

Dear General Paxton,

I respectfully submit this letter in support of myself to inform you of a new alleged illegal retaliation attempt against me by CAP METRO's Director of Security David Martin's subordinate, self-identified as Sergio Rodriguez, for legally whistleblowing CAP METRO drivers' and employees' words and actions on the job that violate CAP METRO policy and procedures, Austin Transportation Code 13-2-132, ~~and/or~~ and/or Texas and/or U.S. Constitutional laws and statutes.

October 31, 2016 between 11:53 and 11:59 AM, on camera, inside the CAP METRO Transit Store located between 8th + Lavaca and 9th + Lavaca, I was standing on the customer side of the

(1 of 7)

Customer Interaction window handing written documents to CAP METRO Transit Store employee identified as Gil, who, along with CAP METRO Transit Store Supervisor Rick, was on the employee side of the window.

Then, CAP METRO security employee, self-identified as Sergio Rodriguez, uninvitedly, unnecessarily, and unwelcomely approached the Customer Interaction window on the customer side, standing to my immediate right (about 2-3 feet from me), and said at loud through the glass to Rick:

"We should put a trace on this guy, so we can get a criminal trespass on him, turning in those bogus reports"

Rodriguez was obviously referring to me and the true complaints being turned in to hold CAP METRO drivers accountable for their words and actions, per CAP METRO policy and procedure.

Therefore, Rodriguez's recommendation, made while on the job and in uniform, to unlawfully stalk me to falsely criminalize me to unlawfully remove me from CAP METRO vehicles and property, as well as mischaracterize the true, merited reports being handed in, to try confusing and controlling me to gaslight, victimize, and intimidate me, evidence Rodriguez allegedly committing retaliation.

by abusing his official capacity to try officially oppressing me.

Per. Texas Penal Code 36.06 (a)(1)(A), a person commits an offense if he intentionally or knowingly threatens to harm another by an unlawful act in retaliation for the service or status of another as informant.

Per. Texas Penal Code 6.03 (a), a person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

Per. Texas Penal Code 6.03 (b), a person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

Per. Texas Penal Code 1.07 (25), "Harm" means anything reasonably regarded as loss.

(3 & 7) Per. Texas Penal Code 36.06 (b)(2), "Informant" means a person who has communicated

information to the government in connection with any governmental function.

Per Texas Transportation Code 451.052(c), an authority (like Capital METRO Transportation Authority) is a governmental unit.

Per Texas Government Code 551.002, every regular meeting of a governmental body, like the monthly CAP METRO Board Meetings, shall be open to the public.

Per Texas Civil Practice and Remedies Code 27.002, one purpose of the Texas Citizens Participation Act is to encourage and safeguard the Constitutional rights of persons to speak freely to participate in government to the maximum extent permitted by law.

Per Texas Civil Practice and Remedies Code 27.001 (3), (1):

"Exercise of the right of free speech" means a communication made in connection with a matter of public concern, and:

"Communication" includes the making or submitting of a statement or document in any form or medium.

Therefore, submitting written quality control documents to CAP METRO's Transit Store,

speaking directly to the CAP METRO Board of Directors during their monthly meetings, and requesting public information about drivers and staff are government participation actions,

And the purpose of the criminal trespass statute is not to regulate speech, but punish activities that are not constitutionally protected (Otwell v. State; Bader v. State).

Therefore, per Texas statutes and case law, Rodriguez allegedly intentionally or knowingly threatened to harm me by unlawfully denying me my constitutional rights to turn in written quality control reports to CAP METRO Transit Store, ~~to~~ attend and speak at CAP METRO Board meetings, and ride CAP METRO vehicles, in retaliation for communicating information to CAP METRO in connection with CAP METRO functions - a 3rd degree felony per Texas Penal Code 36.06 (a)(1)(A).

Rodriguez's alleged verbal retaliation echoes CAP METRO's Director of Security David Martin's alleged written retaliation, per the July 18, 2016 letter from Bickerstaff, Heath Delgado Acosta LLP to Attorney General Paxton, re: my June 27, 2016 request for public information from CAP METRO, and Martin's July 25, 2016 Criminal Trespass Notification warning letter to me - all of which should already be in your file on these matters. (See Attorney General ID →

626699 ; OR 2016-20959)

Therefore, both Rodriguez and Martin allegedly abused their official capacity.

Texas Penal Code 39.02 - Abuse of official capacity

(a) A public servant commits an offense if, with intent to harm or defraud another, he intentionally or knowingly:

(1) violates a law relating to the public servant's office or employment

Therefore, both Rodriguez and Martin sought to officially oppress me.

Texas Penal Code 39.03 - Official Oppression

(a) a public servant acting under color of his office or employment commits an offense, if he:

(2) intentionally denies or impedes another in the exercise or enjoyment of any right, knowing his conduct is unlawful.

Therefore, a written complaint documenting Rodriguez's words and actions was turned in to the CAP METRO Transit Store.

(6 of 7) the early afternoon of October 31, 2016, including

explicit instructions to forward the complaint to all CAP METRO Board Members immediately to hold CAP METRO Director of Security David Martin accountable for his subordinate's behavior, because per Texas Transportation Code 451.053, the Board is responsible for the management, operation, and control of CAP METRO Transit Authority and its property, and because per Texas Transportation Code 451.054, CAP METRO Transportation Authority may be sued.

Please record this letter in your file re: matters pertaining to Attorney General ID #626699 and expect it to be publicly disseminated to members of the media, publicly recorded by various public commissions and councils, publicly discussed on camera, on record, and made available to the public at large.

Thank you in advance for your anticipated cooperation.

Respectfully,
Carlos León
Carlos León

Exhibit D

Carlos León

October 18, 2016

Via Certified Mail

The Honorable Ken Paxton
Attorney General of the State of Texas
209 West 14th, 6th Floor
Austin, TX 78701

Attention: Open Records Division
Gerald A. Arismendez
Assistant Attorney General

Dear General Paxton,

I respectfully submit this letter in support of myself to set the record straight, defend myself from character assassination, appeal your decision, and make you aware of what's going on at CAP METRO under Director of Security David Martin.

Re: my June 27, 2016 request for information, Capital Metropolitan Transportation Authority (CAP METRO) has handed me two letters, one dated July 18, 2016 from Bickersstaff, Heath Delgado Agosto LLP to you (see attached copy as Exhibit A1) and one dated September 16, 2016 from Gerald A. Arismendez Assistant Attorney General, Open Records Division, to Mr. C. Robert Heath, Counsel

for CAP METRO, Bickerstaff Heath Delgado Acosta, LLP (see copy as Exhibit B⁹).

Per Exhibit B1, Paragraph 4, the Attorney General's office said, "Upon review, we find the authority has demonstrated release of the information at issue would create a substantial threat of physical harm to the specified individual. Accordingly, the authority must withhold the identifying information we marked under section 552, b(1) of the Government Code in conjunction with the common-law physical safety exception."

Per Exhibit A1, your determination appears to be based on a copy of the June 27, 2016 request, a copy of the responsive information sought, the affidavit of David J. Martin - Director of Security at CAP METRO, and your interpretation of the law. However, because I have not been shown exactly the documentation you received and because there are many misrepresentations and false statements in Exhibit A1, your decision appears to be based on a mixture of truths, half-truths, and lies fed to you. Therefore, this next section sets the record straight.

Setting the Record Straight

You said, "The authority has demonstrated release of the information at issue would create

a substantial threat of physical harm to the specified individual." However, a threat is a declaration of intention or determination to inflict injury (Planned Parenthood of Columbia/Williamette Inc v. American Coalition of Life Activists). I have neither declared an intention to inflict physical injury to the specified individual nor declared a determination to inflict physical injury to the specified individual. Therefore, CAP METRO must show how the release of the requested public information would cause me to declare such an intention or declare such a determination AND show that such a threat would be substantial.

On pages 3 and 4 of Exhibit A1, CAP METRO lists 10 bulleted factors giving rise to its conclusion of a substantial threat of physical harm. Though I expected the Attorney General's office to see through the ruse, I will now explicitly debunk each and every factor.

~~Bullet factor 1~~ states my use of a pseudonym (Mr. Anon Y Mous). One reason I initially used that pseudonym was to anonymously file written complaints against problematic drivers to avoid being retaliated against by those drivers and CAP METRO, especially since the offending drivers refused to identify themselves when directly asked (almost always). Though I use my legal name, Carlos León, speaking at CAP METRO Board Meetings, I continued using my

pseudonym when filing written complaints,

~~Bullet factor 2~~ documents my evidence-based concern the specified individual was trying to push and enforce sharia law over Constitutional law on public transportation. My directive to deport the specified individual for employing ~~an~~ anti-American law on American soil is a legal way to punish and remove the specified individual without physical injury.

~~Bullet factor 3~~ refers to nameless appeals to Islamophobia that have allegedly resulted in violence to persons assumed to be Muslim. However, my ~~Bullet factor 2~~ statement is not Islamophobic, but America-centric and Constitution-centric. In fact, shariaists seem to fear me knowing and standing up for the Texas Constitution and Constitution for the United States of America.

~~Bullet factor 4~~ correctly states I regularly speak at CAP METRO Board Meetings, Austin City Council Meetings, and Travis County Commissioners Court meetings and that I regularly speak my concerns about sharia law being pushed and enforced over Constitutional law. However, my public comments are not often Islamophobic, homophobic, or anti-semitic. In fact, it's the opposite. Some Muslims, homosexuals, and jews seem to fear me publicly speaking truth.

about their words and actions.

~~Bullet fact~~ 5 states Mr. Martin has spoken with other area security officers - that's his documented attempt to allegedly seek and coordinate allies against me to persecute me for whistleblowing CAP METRO drivers and staff doing wrong under him. For example, Exhibit C1 documents Travis County Deputy Angel's unlawful, unprofessional, abusive ass-backwards behavior against me August 30, 2016 and September 6, 2016, given to detectives Flores and Schroeder of Internal Affairs to handle off-record to give Deputy Angel a chance to correct his behavior without having a formal complaint filed against him placed in his personnel file. Therefore, I do not have feelings of persecution; I am being persecuted.

~~Bullet fact~~ 6 accurately describes Mayor Adler's actions and their psychological, sexual, and legal meanings. However, legally using force to defend yourself from physical attack does not demonstrate you'd unlawfully physically harm someone else.

~~Bullet fact~~ 7 stated that Mr. Martin noted at a Board Meeting I had apparent deep scratches on my head, neck, and back, consistent with being in a fight, though he had no knowledge of their origin. First, if such scratches did exist and if they were from a fight

and Martin had no knowledge of their origin, they could have been the result of legally defending myself from physical attack, which again, does not demonstrate I'd unlawfully physically attack someone else.

Second, if such scratches existed on my back, Martin could not have seen them through my white opaque shirt. So, if Martin had no knowledge of their origin and couldn't see them, how could he have noted their existence?

Therefore, Martin's false statement exists so you'd infer that I unlawfully physically attacked someone else to fool you into believing that releasing the information at issue would create a substantial threat of physical harm to the specified individual.

~~Bullet factor 8~~ I correctly stated I have filed over 600 quality control complaints with CAP METRO or its contractors through the end of March 2016, documenting CAP METRO policy and procedure violations and unprofessional and/or discourteous behavior violating Austin Transportation Code 13-2-13.

However, the second sentence incorrectly states virtually all of my complaints have been without merit. The opposite is true. Virtually all my complaints have been merited.

The third sentence states drivers and their supervisors believe I use the complaint system to harass specific drivers. However, the opposite is true. Specific drivers and staff have harassed me using psychological warfare techniques to disrespect, ~~and~~ demean, and insult me to try effeminating, emasculating, and infantilizing me to confuse and control me to gaslight me to overwrite my healthy reality with their insanity.

Examples include:

- Not stopping at the bus stop to not allow me to board and ride the bus, despite me clearly wanting at the driver to stop at the stop;
- Wrongly ordering me to go to the back of the bus to sit where driver wants me to be, instead of rightly accepting me sitting in the middle or front where I chose;
- Telling me that because my face is plastered on the wall at CAP METRO, like a wanted poster, I am not allowed to ride the bus, falsely criminalizing me to falsely punish me;
- Not opening middle or rear doors on CAP METRO RAPTID busses to not allow me to board where and how I choose, though CAP

METRO policy demands it to non-verbally try forcing me to board through the front door only, how and where public servant driver wants;

- Not opening the front or rear doors on regular busses to not allow me to exit where and how I want, though CAP METRO policy demands driver open both to accommodate passenger preference to try non-verbally forcing me to exit how and where public servant driver wants;

- Making up and trying to enforce non-existent rules to try forcing me to sit, stand, ~~or~~ and/or place my gear where public servant driver wants instead of where and how I choose, though I am following legal CAP METRO policy and procedure;

- Refusing to accept clearly printed information on the valid bus pass showing clear evidence of fare payment when the machine fare card reader fails to properly read the information on the card's electronic strip;

- Wrongly calling the Austin Police Department to unlawfully remove me from the bus for rightly refusing to follow driver's unlawful or unnecessary directives that violate my civil rights;

- Wrongly asking me personal questions about my private property and my plans during a professional interaction to try getting me to serve the public servant drivers by unnecessarily divulging information about me and my stuff that's not their business;

- Wrongly trying to force me to board using a ramp, though I do not want or need a ramp to board, to non-verbally deny me what I choose and incept the false notion that I am physically handicapped, weak, or old;

- Wrongly telling me to board without showing evidence of fare payment to get me to violate AP METRO policy and procedures on camera and so I'd unnecessarily and unlawfully owe the driver for his unlawful act of unnecessary and unwanted "assistance."

Bullet factor 9 has nothing to do with me.

Bullet factor 10 falsely claims I have a history of harassing drivers. Per the copy of Texas Penal Code 42.07 (a)(2) given to me by AP METRO, a person commits harassment, if with intent to harass, annoy, alarm, abuse, torment, or embarrass another, the person threatens in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person, or to

Commit a felony against the person, a member of the person's family, or the person's property.

Therefore, because I have not threatened any drivers, as defined by Planned Parenthood of Columbia/Willamette, Inc v. American Coalition of Life Activists, I have not harassed any drivers. Further, my statements about the specified driver are facts based on his words and actions, not highly inflammatory accusations.

Therefore, because I do not have a history of harassing drivers and have not made highly inflammatory accusations about the specified driver, the risk that others would pose a threat to this specified driver if they had access to the driver's name and photograph is not greatly increased.

Also, describing others as "perhaps mentally unbalanced persons" is an obvious attempt to imply I am possibly mentally unbalanced. However, Mr. Martin has no moral, legal, or social right to project his ~~apparently~~ apparently likely mental illness on to my healthy mind.

Further, in the paragraph immediately following the 10 bulleted factors it falsely claims I have threatened violence against the mayor. The truth, on record, is I publicly warned the

mayor to expect me to legally use necessary force to defend myself if he tried to physically assault me, as documented in Bullet factor six.

In that same paragraph, false statements about Islamophobic comments and harassed CAP METRO drivers, as well as the false statement about the mayor, are used to falsely establish a substantial threat of physical harm to fit within the special circumstances of the type set out in the letter rulings and open records division cited.

Mr. Marth has also made other false statements in writing. In his July 25, 2016 Criminal Trespass Notification Warning to me (see Exhibit D1) he advised me that any further rules violation of CAP METRO policy would result in my immediate removal from all CAP METRO property and vehicles for a period of six months. However, that statement presupposes without proof that I have previously violated CAP METRO policies.

Also, Bullet four in Exhibit D1 about falling asleep riding the bus is a concern, not a rule. Bullet five rule only permitting standing when no seats are available is unconstitutional. A passenger has the freedom to stand if he so wishes, regardless if seats are available, as long as he does not block the aisle or exit. Plus the idea of banning me for six months for falling asleep or standing is insane. Doing so would also unlawfully stop me from attending and participating in CAP METRO

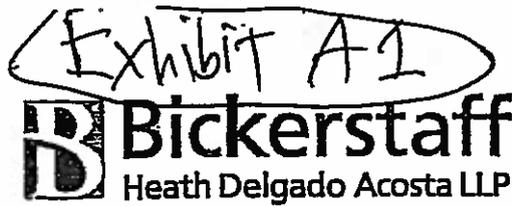
Board Meetings, violating the Texas Open Meetings Act and Texas Citizens Participation Act.

Therefore, I respectfully request you reverse your initial decision based on erroneous, misleading information and force Mr. Martin and CAP METRO to comply with my public information request as soon as possible.

Respectfully,

Carlos Leon

Carlos Leon



44 of 71

July 18, 2016

*Via Certified Mail,
Return Receipt Requested*

The Honorable Ken Paxton
Attorney General of the State of Texas
209 West 14th, 6th Floor
Austin, Texas 78701

ATTENTION: Open Records Division

**Re: Request for Open Records Decision and Letter Brief
Capital Metropolitan Transportation Authority
Request for Information by Mr. Anon Y Mous
Attorney General ID# 626699**

Dear General Paxton:

This Firm serves as legal counsel for Capital Metropolitan Transportation Authority ("Capital Metro"). On behalf of Capital Metro, I respectfully submit this letter brief in support of Capital Metro's request for an Open Records decision from the Office of the Attorney General regarding Capital Metro's authority to withhold certain information from the public. This request is submitted pursuant to the Texas Public Information Act, Texas Government Code, section 552.301.

On June 27, 2016, Mr. Anon Y Mous filed a request for information with Capital Metro. Mr. Anon Y Mous requested the following information:

"For the Islamic, Middle Eastern male driver of complaint of action that took place 6/23/16, 12:17-12:20 PM, Bus # 5062, 803 – Northbound, Sunshine Station, I request:

- 1) All complaints on file against this driver between 1/1/15 and 6/26/16, starting from the most recent & working back until 1/1/15 or 49 pages; 2) a 3" x 5" photo of driver's face; 3) driver's first & last name.

Note: I limit my request to a total of 50 pages."

A copy of Mr. Anon Y Mous' June 27, 2016 request is attached as Exhibit A. A copy of the responsive information sought is attached as Exhibit B.

13 of 40

The Honorable Ken Paxton
July 18, 2016
Page 2

Capital Metro believes, under the specific circumstances of this case, complying with the second and third part of Mr. Mous' request (i.e., the request for the driver's photograph and name) poses a substantial threat of physical harm and thus is excepted from required disclosure under sections 552.101 and 552.152 of the Act. Capital Metro has released the requested complaints on file, although with the driver's and customers' names redacted while the issue of the availability of the names and photographs is being determined. Authority to redact the customers' names also derives from section 552.101.

Section 552.101

Common Law Right of Physical Safety

The Texas Supreme Court recognizes a common law right of confidentiality when necessary to protect against a substantial risk of physical harm. *Texas Dept. of Public Safety v. Cox Texas Newspapers, L.P.*, 343 S.W.3d 112, 118 (Tex. 2011). If information falls within the common law right of physical safety, then it is considered to be confidential by judicial decision and, thus, is excepted from disclosure under section 552.101. See e.g., Tex. Atty Gen'l OR2008-01570 (special circumstances where release of information would endanger city employees' safety were sufficient to invoke section 552.101 exception).

The Supreme Court has concluded that the standard for proving the common-law right-of-physical-safety exception is whether disclosure of the information would create a substantial threat of physical harm. *Texas Dept. of Public Safety*, 343 S.W.3d at 118. In making the determination, deference must be afforded security professionals and law enforcement experts, although vague assertions of risk will not be sufficient. *Id.* at 119. Among the circumstances found by the Attorney General to invoke the physical-safety exception are threatening statements about coming to a transit authority employee's home, Tex. Atty Gen'l OR2008-03289; threatening statements to city staff, Tex. Atty Gen'l OR2008-01570; and prior harassment of a utility company employee by an specific individual coupled with reason to believe it would resume if the employee's address were revealed. TEX. ATTY GEN'L OPEN REC. DEC. No. 169 (1977).

Here, the request is for the name of a specific bus driver and for the driver's photograph. The concern for the driver's safety comes in large part from the statements and actions of the requestor himself. The affidavit of David J. Martin, the Director of Security for Capital Metro, sets out reasons for security concerns and is attached as Exhibit C. While in ordinary circumstances the identity of the requestor would be irrelevant, the Attorney General has found special circumstances creating an exception to disclosure requirements based on threatening statements made by the requestor.¹ Tex. Atty Gen'l OR2008-01570 ("the requestor . . . has made threatening statements to city staff."). Where there is such a direct link between the requestor and the potential threat, the concern is more immediate.

¹ Prior to *Texas Dept. of Public Safety*, the Attorney General employed a similar personal safety exception that was referred to as "special circumstances." E.g., TEX. ATTY GEN'L OPEN REC. DEC. No. 169 (1977).

The Honorable Ken Paxton
July 18, 2016
Page 3

Factors giving rise to the conclusion of a substantial threat of physical harm include:

- The requestor has given an obviously false name (Anon Y. Mous). At other times (e.g., when speaking to the Capital Metro board) he has given the name Carlos Leon. Presumably that is his real name.
- The requestor stated, specifically in regard to the driver whose identity he seeks, that

driver's actions, words, physical appearance, & faith all point to driver trying to push & enforce Sharia law over Constitutional law on public transportation in Austin, TX, U.S.A. Hell no. Investigate, ID, & excise the secret Sharia network within CAP METRO & deport them to the Middle East, where they can legally practice Sharia law. NOT HERE IN the UNITED STATES OF AMERICA.

- There are appeals today throughout the nation to Islamophobia that have often resulted in violence to persons who are, correctly or incorrectly, assumed to be Muslim.
- The requestor regularly appears at Capital Metro Board meetings, City of Austin Council sessions, and Travis County Commissioners Court meetings where he participates in the public comments portion of the meeting. His comments are often Islamophobic, homophobic, and anti-Semitic and frequently refer to his concern about Sharia law. At a recent commissioners court meeting he was escorted from the meeting room by a deputy after his remarks about an "antichrist virus [that] has infected millions." *Austin Monitor*, "Reporters' Notebook" (June 13, 2016).
- The Capital Metro director of security confers with security officers in other jurisdictions in the area who also are aware of Mr. Leon (Mous) and his apparent feelings of persecution.
- At the August 13, 2015, city council meeting, the requestor described how he was leaving the Capital Metro board meeting with his hands full when Mayor Adler, who had been standing in the doorway, opened the door and stepped aside. Mr. Leon (i.e., Mr. Mous) continued his narrative:

However, as I went by Mayor Adler put his hand on my lower back; an unnecessary, uninvited physical contact against me. Under the guise of help, Mayor Adler's sick, flirtatious touch was actually him trying to possess, control and exert power over me like how homosexual males try to psychologically confuse, flip and control us heterosexual males.

Keep your hands to yourself, Mayor Adler. If you lay a hand on me again, expect me to consider it assault per Texas Penal Code 22.01(a)(3), which legally frees and empowers me to use force to defend myself per Texas Penal Code 9.31 parts II and III.

The Honorable Ken Paxton
July 18, 2016
Page 4

Video and transcript at <http://www.dailykos.com/story/2015/8/15/1412354/-LGBTQ-Actual-Video-Evidence-of-Religiopolitical-Teh-Crazy-in-Austin-Texas>.

- Although we have no knowledge of their origin, the Capital Metro director of security noted that at the June board meeting Mr. Leon had apparent deep scratches on his head, neck, and back that were consistent with being in a fight.
- Mr. Leon (Mous) has filed over 600 complaints with Capital Metro or its contractors through the end of March 2016. Virtually all of his complaints have been found to be without merit. Drivers and their supervisors believe that Mr. Leon uses the complaint system to harass specific drivers.
- Bus drivers are especially vulnerable to harassment or violent attack since they must face forward, strapped into the driver's seat with their back and side exposed, while keeping their attention focused on driving the bus in a safe manner.
- Even if the Attorney General is reluctant to conclude that Mr. Leon personally poses a substantial threat to the driver's safety, the fact that he has a history of harassing drivers and has made highly inflammatory accusations about this driver greatly increases the risk that other, perhaps mentally unbalanced persons, would pose a threat if they had access to the driver's name and photograph.

Here Capital Metro has released the substantive information requested—i.e., the complaints filed against this particular driver. All that is sought to be withheld is the name² and photograph of the driver, which would facilitate locating this driver and potentially harassing or harming him. Given that the requestor has, among other things, made Islamophobic comments, is apparently concerned about an antichrist virus, has threatened violence against the Mayor of Austin, and has harassed Capital Metro bus drivers, this situation both establishes a substantial threat of physical harm and fits within the special circumstances of the type set out in the letter rulings and open records decision cited above. Accordingly, the name and photograph are excepted under section 552.101.

Section 451.061(f)(1), Texas Transportation Code

Additionally, the name phone number of the complainant in the various complaints requested is excepted from disclosure under section 552.101. Section 451.061(f)(1) of the Transportation Code, a provision that governs Capital Metro, provides:

(f) Personal identifying information collected by an authority is confidential and not subject to disclosure under Chapter 552, Government Code, including a person's:

² Along with the driver's name, we have also redacted his identification number, which, like the name and photograph, is another means of identification.

The Honorable Ken Paxton
July 18, 2016
Page 5

(1) name, address, e-mail address, and phone number;

TEX. TRANS. CODE, § 451.061(f)(1). Thus, when Capital Metro collected a complaint that contained the complainant's name, that name was made expressly confidential under this section and section 552.101. Further, the driver's name and photograph are personally identifying information that is collected by the authority and they also fall within the scope of section 451.061(f). The individual's photograph, unlike a person's name, is not among the specific items that are set out in section 451.061, but the exception is for "personal identifying information . . . including" an individual's name. TEX. GOV'T CODE, § 331.005(13) ("Includes' and 'including' are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded"). The list is not exclusive, and a photograph certainly qualifies as personal identifying information.³

Section 552.152

Additionally, the driver's name and photograph are excepted from disclosure under section 552.152. It provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

TEX. GOVT. CODE, § 552.152.

As the test—substantial threat of physical harm—is the same as for the common law right to physical safety, all the factors discussed above in regard to the common law right apply here as well. Indeed, the Supreme Court's test for the common law right was informed by the statutory language of section 552.152. *Texas Dept. of Public Safety*, 343 S.W.3d at 118.

The only different issue posed by section 552.152 is whether the driver is an officer or employee of Capital Metro. Because of conflicting state and federal statutory requirements relating to collective bargaining, Capital Metro's drivers, mechanics, and other workers who, in the private sector would have the right to bargain collectively, are employed by a separate entity—in this case, MV Transportation. This arrangement permits Capital Metro to comply with both state and federal law. Although this individual and other drivers are technically employed by MV Transportation, they wear Capital Metro uniforms when working. In the case of litigation, Capital Metro is required to and does defend and indemnify those drivers. Undoubtedly the public understands the drivers to be Capital Metro employees. In similar situations, the Attorney General

³ While the bus driver's name and photograph fit within the language of section 451.061(f), it is not necessary to address that issue if the Attorney General finds that they are excepted under the personal safety exception encompassed within section 552.101 or are excepted by section 552.152. So long as the driver's name and photograph fall within one of those two exceptions, it is necessary to consider section 451.061

The Honorable Ken Paxton
July 18, 2016
Page 6

has found section 552.103, which applies only to suits against governmental bodies, to be invoked when a suit was brought against a driver when Capital Metro itself was not named as a party. Tex. Atty Gen'l OR2014-22596.⁴ Just as the employment relationship was sufficient in that ruling to invoke section 552.103, it is sufficient here to invoke section 552.152.

Conclusion

Under the specific facts of this case, the driver's name and photograph are excepted from disclosure under section 552.101 due to the common law right to personal safety as well as under section 552.152. The complainants' names are excepted from disclosure under section 552.101 by virtue of their being made confidential by section 451.061(f) of the Texas Transportation Code.

We are not able to mail the requestor a copy of this letter as he has provided what is obviously a false name and given no address. We note that the requestor has said that he would pick up the information at 2910 E. 5th Street, which is the address of Capital Metro's headquarters. In order to comply with section 552.301(d) of the Texas Government Code as closely as possible under the circumstances, we will leave a copy of this letter without Exhibit B addressed to Mr. Anon-Y. Mous at the reception desk at 2910 E. 5th Street.

Please contact my office if you have any questions regarding this matter.

Sincerely,



C. Robert Heath

- Encl: Exhibit A: Request from Mr. Anon Y Mous received June 27, 2016
- Exhibit B: Copy of the responsive information being withheld
- Exhibit C: Affidavit of David J. Martin, Director of Security for Capital Metro

cc: Kerri L. Butcher
Chief Counsel
Capital Metropolitan Transportation Authority
2910 East Fifth Street
Austin, Texas 78702
(Via electronic mail)

⁴ Although the letter ruling decided that Capital Metro, which was not named as a party, came within the section 552.103 exception for suits against governmental bodies, it did not discuss the issue of the relationship between Capital Metro and the employees. That issue, though, was squarely presented and briefed in the 15-day letter and was an issue the Attorney General had to and did rule on to reach his result.

18 of 40

Exhibit B.1



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 16, 2016

Mr. C. Robert Heath
Counsel for Capital Metropolitan Transportation Authority
Bickerstaff Heath Delgado Acosta, L.L.P.
Building One, Suite 300
3711 South MoPac Expressway
Austin, Texas 78746

OR2016-20959

Dear Mr. Heath:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 626699.

The Capital Metropolitan Transportation Authority (the "authority") received a request for information pertaining to a specified individual, including the individual's name and photograph, and all complaints filed against the individual during a specified time period. You state you have released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by judicial decision and the common-law physical safety exception. The Texas Supreme Court has recognized, for the first time, a common-law physical safety exception to required disclosure. *Tex. Dep't of Pub. Safety v. Cox Tex. Newspapers, L.P. & Hearst Newspapers, L.L.C.*, 343 S.W.3d 112, 118 (Tex. 2011). Pursuant to this common-law physical safety exception, "information may be withheld [from public release] if disclosure would create a substantial threat of physical harm. *Id.* In applying this standard, the court noted "deference must be

afforded" law enforcement experts regarding the probability of harm, but further cautioned, "vague assertions of risk will not carry the day." *Id.* at 119.

You inform us portions of the submitted information, which you marked, consist of the identifying information of the specified individual. You argue release of the information you marked "poses a substantial threat of physical harm" to the specified individual given the circumstances. Upon review, we find the authority has demonstrated release of the information at issue would create a substantial threat of physical harm to the specified individual. Accordingly, the authority must withhold the identifying information of the specified individual you marked, in addition to the information we marked, under section 552.101 of the Government Code in conjunction with the common-law physical safety exception.¹

You raise section 552.101 of the Government Code in conjunction with section 451.061(f)(1) of the Transportation Code for portions of the remaining information. Section 552.101 also encompasses information made confidential by other statutes, including section 451.061, which provides, in relevant part:

(f) Personal identifying information collected by an authority is confidential and not subject to disclosure under Chapter 552, Government Code, including a person's:

- (1) name, address, e-mail address, and phone number;
- (2) account number, password, payment transaction activity, toll or charge record, or credit, debit, or other payment card number; and
- (3) other personal financial information.

Transp. Code § 451.061(f); *see id.* § 451.001(2) (defining "authority" for purposes of chapter 451 of the Transportation Code). We note subsection 451.061(f) is contained in section 451.061, which is titled "Fares and Other Charges." Additionally, subsections (a) through (e) of section 451.061 discuss an authority's responsibilities in imposing fares and other charges and the state's power to regulate taxes imposed by an authority or other compensation authorized by this section. *See id.* § 451.061(a)-(e). Accordingly, we conclude section 451.061(f) is only applicable to personal identifying information collected by the authority for purposes relating to the collection of fares and other charges. *Cf. Ken Paxton v. Tex. Dep't of State Health Servs.*, No. 03-14-00594-CV, at *3 (Tex. App.—Austin Aug. 31, 2016, no pet. h.) (holding although isolated reading of section 531.1021(g) of Government Code suggests it applies to any Office of Inspector General ("OIG"))

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

Mr. C. Robert Heath - Page 3

investigation, confidentiality of OIG investigations provided by section 531.1021(g) must be read in context of OIG's enabling provisions and thus, extended only to OIG investigations concerning fraud, waste, and abuse in the provision and delivery of health and human services in the state). Upon review, we find the authority did not collect the complainants' personal identifying information for purposes relating to the collection of fares and other charges. Consequently, the complainants' personal identifying information you marked is not confidential under section 451.061(f) of the Transportation Code, and may not be withheld under section 552.101 of the Government Code on that basis.

In summary, the authority must withhold the identifying information of the specified individual you marked, in addition to the information we marked, under section 552.101 of the Government Code in conjunction with the common-law physical safety exception. The authority must release the remaining information.

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

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

Sincerely,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/dls

REF ID# 626699

Enc. Submitted documents

cc: Requestor
(w/o signatures)

Travis County Sheriff
Travis County Sheriff's Office
5555 Airport Dr.
Austin, TX 78751

Exhibit C 1

Not yet officially filed
with Sheriff Hamilton
as of October 18, 2016

September 12, 2016

Dear Travis County Sheriff Hamilton,

Per Local Government Code §5.003(c), (d), a deputy serves at the pleasure of the sheriff and the sheriff is responsible for the official acts of his deputy. Therefore, this complaint to Travis County Sheriff Greg Hamilton documents Travis County Deputy Angel's unlawful, unprofessional, abusive, ass-backwards, bullying behavior against Mr. Carlos Leon August 30, 2016 and September 6, 2016 at Travis County Commissioners Court.

August 30, 2016 at about 8:45 AM, Mr. Leon approached the security set-up in front of the Travis County Commissioners Court entrance. Per procedure, Mr. Leon took metal objects out of his pockets and placed them in a small, open, plastic basket to be viewed and/or examined before walking through the metal detector. One of the objects was a pocket knife with blade less than 5 1/2 inches.

0.
Per Texas Penal Code 46.03 (a)(3), a person commits an offense if the person knowingly goes with an illegal knife on the premises of any government court. An illegal knife means a blade over 5 1/2 inches, per Texas Penal Code 46.01 6(a). Therefore, attending Travis County Commissioners Court with a legal pocket knife of blade less than 5 1/2 inches is NOT committing an offense. In fact, every previous time Mr. Leon attended Travis County Commissioners Court with his legal pocket knife, there was no problem.

However, on August 30, 2016, Travis County Deputy Angel picked up Mr. Leon's knife from the basket and explicitly told Mr. Leon there was no way Mr. Leon would be attending Travis County Commissioners Court with his legal pocket knife, though Mr. Leon was following the law, had always kept his pocket knife closed and in his pocket during previous Travis County Commissioners Court meetings, and had never threatened to weaponize it during Travis

County Commissioners Court proceedings.

When Mr. León respectfully started explaining Texas Penal Code 46.01 6(a) to Deputy Angel, Deputy Angel disrespectfully cut him off, repeating himself, again saying Mr. León would not be allowed to bring the legal pocket knife with him to Travis County Commissioners Court.

Though such restrictive, preventive measures may be legally justified for civil and criminal courtrons, where violent reaction to Court decisions and sentences is a genuine concern, Travis County Commissioners Court is primarily an administrative body doing county business. Though the County Judge and Commissioners have acted in ways to anger Court attendees, they also anger each other. Yet, no one is physically attacking anyone else. In Court, facts, law, and argument are battle weapons.

Therefore, Travis County Commissioners Court meetings are similar to Austin City Council meetings at City Hall, where attendees legally carry legal pocket knives on their person inside the building

and during meetings.

When Mr. León explained to Deputy Angel there had never been a problem before, Deputy Angel said yet again that Mr. León would not be allowed to attend Travis County Commissioners Court with his legal pocket knife.

Seeing how Deputy Angel repeatedly refused to acknowledge Mr. León's legal right to attend Travis County Commissioners Court with his legal pocket knife in his pocket, Mr. León told Deputy Angel to call his supervisor. However, Deputy Angel refused, telling Mr. León to go to the Courthouse to find his (Angel's) supervisor.

Deputy Angel's disrespectful, ass-backwards response to Mr. León's respectful, relevant directive was wrong because Deputy Angel is a public servant, per Texas Penal Code 1.07, meaning Deputy Angel gets paid by Travis County taxpayer dollars to serve Mr. León, not the other way around. Deputy Angel, therefore, should have immediately

called his superior, especially because Travis County Commissioners Court was scheduled to start within 15 minutes and Mr. Leon was there to speak at the beginning of the meeting.

Therefore, seeing how Deputy Angel was not following the law, Mr. Leon did not go through the metal detector and told Deputy Angel to return his legal pocket knife. However, Deputy Angel initially refused, telling Mr. Leon he'd return it to him after he'd left the building.

Again, Deputy Angel's disrespectful, as-backwards response to Mr. Leon's respectful, relevant directive was wrong because the legal pocket knife is Mr. Leon's property, not Deputy Angel's, and because Mr. Leon has the legal right to be in the government building with his legal pocket knife. Therefore, Deputy Angel was again trying to criminalize Mr. Leon's legal behavior, though Deputy Angel was acting unlawfully.

Per Texas Penal Code 31.03(a)(1), a person commits theft if he unlawfully appropriates property with intent to deprive the owner of

the property and appropriation of property is unlawful if it is without the owner's effective consent. Therefore, when Mr. León told Deputy Angel to return his (León's) legal pocket knife to him, Deputy Angel did not have owner León's effective consent to have León's legal pocket knife in his possession. Therefore, when Deputy Angel initially refused to give it back, Deputy Angel committed theft.

Also, because Mr. León has the legal right to be in the government building with his legal pocket knife on his person, Deputy Angel wrongly tried putting a condition for Mr. León to get his legal pocket knife back from Deputy Angel, who should never have possessed it. Therefore, Deputy Angel was unlawfully and unwelcomely trying to effeminate, emasculate and infantilize Mr. León by disarming him, denying him what is rightly and legally his, and trying to control Mr. León's movement.

Per Texas Penal Code 20.02(a) and 20.01(1), (1a), a person commits an (27 of 40)

offense if he intentionally or knowingly restrains another person, with "restrain" meaning to restrict a person's movements without consent, so as to interfere substantially with the person's liberty, by moving the person from one place to another and "without consent" means by force, intimidation, or deception.

When Deputy Angel wrongly did not allow Mr. León to attend Travis County Commissioners Court with his legal pocket knife in his pocket, Deputy Angel unlawfully restrained Mr. León by intimidation and deception. Had Mr. León ignored Deputy Angel's verbal warnings, Mr. León ran the risk of being punished for directly disobeying Deputy Angel, though Mr. León knew the law was on his side.

When Deputy Angel wrongly told Mr. León to leave the building before being eligible to get his (León's) legal pocket knife back from Angel, Deputy Angel attempted to unlawfully restrain Mr. León by trying to force him to leave the building he (León) had the legal right to be in with his (León's) legal pocket knife.

To defeat Angel's attack on León's civil rights, Mr. León reminded Angel he (León) had not gone through the metal detector and that there was an eyewitness to this interaction (another security employee). Only then, after considering the illegality of his actions and who was watching, did Deputy Angel return Mr. León's legal pocket knife to Mr. León there and then, inside the building, without Mr. León taking a single step from where Mr. León was standing.

Mr. León has the right to not be deprived of liberty (movement) or property, or in any manner disenfranchised, except by Due Process or due course of the law of the land, protected by U.S. Constitution's 5th & 14th Amendments and Texas Constitution Article I, Section 19.

Though neither U.S. nor Texas law explicitly says Mr. León can attend Travis County Commissioners Court with his legal pocket knife, neither do they say he cannot. Therefore, Mr. León can because the U.S. Constitution's 9th Amendment says the

enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people and the 10th Amendment says the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Though Texas law does provide the County Sheriff and County Judge authority to create and enforce government building and Court Security policies and procedures, those policies and procedures cannot violate citizens' civil rights.

Therefore, because Deputy Angel did not allow Mr. León to attend and speak at the Travis County Commissioners Court meeting with his legal pocket knife on his person, Deputy Angel violated the Texas Open Meetings Act and the Texas Citizens Participation Act.

Per Texas Government Code 551.002, every regular meeting of a governmental body shall be open to the public. Though Travis County Commissioners Court calls its official

weekly gatherings voting sessions, meetings include sessions of a governmental body, per Texas Government Code 551.001 (4).

However, because Mr. León was denied access to the August 30, 2016 Travis County Commissioners Court meeting with his legal pocket knife on his person, the meeting was closed to Mr. León, per Texas Government Code 551.001 (1).

Per Civil Practice and Remedies Code 27.002 one purpose of the Texas Citizens Participation Act is to encourage and safeguard the Constitutional rights of persons to speak freely to participate in government to the maximum extent permitted by law.

Per Civil Practice and Remedies Code 27.001 (1), (3), (8), (9):

"Communication" includes the making or submitting of a statement or document in any form or medium, including oral;

"Exercise of the right of free speech" means a

Communication made in connection with a matter of public concern;

"Official proceeding" means any type of administrative, executive, legislative, or judicial proceeding that may be conducted before a public servant;

"Public servant" means a person elected as an officer of government.

Therefore, speaking at Citizen Communication during Travis County Commissioners Court's weekly meetings presided by Travis County Judge Eckhardt is government participation. Therefore, by not being allowed to attend the August 30, 2016 Travis County Commissioners Court meeting with his legal pocket knife on his person, Mr. Leon was not allowed to speak freely to participate in government to the maximum extent permitted.

Therefore, because members of the public without legal pocket knives on their person were allowed into attend and speak and because

persons with Travis County ID badges can freely attend and speak without going through any security screening, Mr. León was doubly denied equal protection under the law, violating the U.S. Constitution's 14th Amendment, which says no state shall deny to any person within its jurisdiction the equal protection of the laws.

Therefore, Deputy Angel is allegedly guilty of official oppression. Texas Penal Code 39.03 (a1), (a2) says a public servant acting under color of his office or employment commits an offense if he intentionally subjects another to mistreatment and intentionally denies or impedes another in the exercise or enjoyment of any right or power, knowing his conduct is unlawful. Per the aforementioned evidence and analysis, Deputy Angel mistreated Mr. León and intentionally denied Mr. León's exercise of his right to attend Travis County Commissioners Court's August 30, 2016 meeting with his legal pocket knife in his pocket, his right to participate and speak at that meeting, his right

to have his legal pocket knife not be thefted by Deputy Angel, and his power to make Deputy Angel answer his relevant questions, ~~and~~ comply with MR. Leon's respectfully relevant request to call Deputy Angel's supervisor, and immediately return MR. Leon's legal pocket knife to him when so directed. Deputy Angel also initially denied MR. Leon's exercise of his right to have his legal pocket knife ~~with~~ on his person while inside a government building.

Therefore, Deputy Angel allegedly abused his official capacity. Per Texas Penal Code 39.02(a)(1) a public servant commits an offense if, with intent to harm or defraud another, he intentionally or knowingly violates a law relating to the public servant's office or employment. Per the aforementioned evidence and analysis, Deputy Angel allegedly violated multiple laws relating to his office and employment.

Therefore, after finally getting his legal pocket knife back from Deputy Angel, MR. Leon walked away from Deputy Angel and out of the building.

September 6, 2016 MR. León arrived at Travis County Commissioners Court at about 8:40 AM to attend and speak at the weekly meeting. MR. León approached Deputy Angel at the security apparatus and respectfully asked Deputy Angel if there would be a problem if he brought in a legal pocket knife. Deputy Angel again did not answer MR. León's relevant question, but again tried flipping sanity and the true power relationship on its head by irrelevantly asking MR. León, "Do you mean the one you brought last time?"

Since public servant Angel must legally serve MR. León, not the other way around, MR. León did not answer Deputy Angel's unnecessary question. Instead, MR. León responded by asking Deputy Angel, "So, you're not answering my question?" Deputy Angel falsely replied, "I already answered it." So, MR. León walked away from Deputy Angel.

About 10 minutes later, MR. León returned

placed his metal objects in the plastic basket (which did not include a pocket knife) and walked through the metal detector. Deputy Angel looked at Mr. León's challenge coin in the plastic basket and creepily told Mr. León, "I really like your challenge coin."

Deputy Angel's unnecessary, uninvited, unwelcome comment appeared to be Deputy Angel speaking in code to communicate:

1) a compliment to Mr. León for not trying to bring a legal pocket knife with him into Travis County Commissioners Court to emotionally reward Mr. León to explicitly condition Mr. León to wrongly accept and feel good about being unlawfully disarmed and having his civil rights denied;

2) that Deputy Angel would accept Mr. León's challenge coin in exchange to recognize Mr. León's right to bring his legal pocket knife to the Travis County Commissioners Court meeting - a right that is already Mr. León's free of charge; ~~_____~~

3) that Deputy Angel wants Mr. León's challenge coin to take more of Mr. León's property from him to bully and dominate Mr. León, though public servant Angel must serve Mr. León.

Deputy Angel's September 6, 2016 communications 2) and 3) are similar to his August 30, 2016 attempt to make Mr. León leave the government building he legally had the right to be in before returning Mr. León's legal pocket knife to Mr. León, though Deputy Angel had no legal right to possess Mr. León's knife without Mr. León's effective consent, which he didn't have.

Therefore, because Deputy Angel's abusive, ass-backwards behavior against Mr. León exemplifies how sex offenders try to demean and dominate their targets, forward this complaint to Travis County personnel who investigate, charge and punish county employee homosexual harassment of STRAIGHT MALE members of the public they serve. In fact, Deputy Angel's name

alias(es), face, and fingerprints should be checked against all local, state, and national sex offender and criminal registries and databases to determine if Angel is eligible to be a deputy.

Regardless, Deputy Angel has repeatedly acted the exact opposite of how a Travis County Sheriff's Deputy should, meaning Angel should not be working with or for the public.

Place a copy of this complaint in Deputy Angel's permanent personnel file to defend Mr. León from and stop Angel's attacks and protect fellow law-abiding Travis County residents from Deputy Angel's gaslighting behaviors.

In Jesus name,

Carlos León

Carlos León

The military shall at all times be subordinate to the civil authority.

- Texas Constitution
Article I, Section 24

Exhibit D 1

So, standing or sleeping results in six-month removal from CAP METRO vehicles and property? Ridiculous.



METRO

July 25, 2016

To: Mr. Carlos De Leon

Subject: Criminal Trespass Notification Warning

This is to advise you that any further rules violation of Capital Metro Policy will result in your immediate removal from all Capital Metro property and vehicles for a period of six months. Any further violations during the six month timeframe will increase removal to one year from original date of violation. You will also refrain from disorderly conduct on any Capital Metro vehicles, Capital Metro Operators and/or Personnel and follow all instructions given for your safety and the safety of those about you.

Please pay particular attention to the following rules:

- Share the ride and do not take up more than one seat.
- Do not block vehicle doorways; riders entering and exiting need room to pass.
- When boarding and exiting, do not cross in front of the vehicle.
- Riders who fall asleep while riding are at risk of being injured from unexpected vehicle movement or stops.
- Standing is only permitted when there are no seats available; do not block the walkway when standing.
- Stand behind the white or yellow line at the entrance of vehicles.
- Belongings must be maintained on your lap or at your feet.
- Items may not block aisles, obstruct seats, or be left unattended.
- Priority seating at the front of vehicles is reserved for seniors and riders with disabilities.
- Disruptive behavior is not allowed, including: loud conversation, profanity, insults, threats, horseplay, or fighting.
- Riders without a valid fare may be asked to de-board.
- It is strictly prohibited to interfere with the operation of a vehicle, including talking to the bus operator while the vehicle is in motion.

concern, not a rule; cannot be punished

Unconstitutional rule

If you have questions, contact Capital Metro Customer Service at (512) 474-1200.

Thank you,

[Handwritten Signature]

David Martin
Capital Metro Director of Security

Capital Metropolitan Transportation Authority Self-Evaluation Report

VI. Organization

A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division.

See organizational chart on the following page. The number of FTEs for each department is provided in Section E below.

Capital Metropolitan Transportation Authority

Subject to revision for FY 2010 Budget-As of 9/18/2009

