


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

RECEIVED

JUL 25 2013

CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY CLERK

JOHN EDWARD FODDRILL SR

Plaintiff

v.

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

Defendants

NO. 5:13-CV-00051

**PLAINTIFF'S RESPONSE TO DEFENDANT'S OBJECTIONS TO DOCUMENT 19 AND
ADDITIONAL EVIDENCE SUBMITTED BY PLAINTIFF**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

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

1. The Plaintiff requests that the Court leave this Cause intact, and since the Plaintiff is appearing pro se, he asks that his complaint be liberally construed and "held to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007), and as a consequence, he be allowed to amend his Complaint to correct any deficiencies in this Cause as filed. In *Picking v. Pennsylvania Railway*, 151 F2d.240, 244, (1945), "Where a Plaintiff pleads pro se in a suit for protection of civil rights, the court should endeavor to construe the Plaintiff's pleading without regard to technicalities". Also see *Picking* at 250. Moreover, Title VII cases are controlled by *Albemarle*(at 421,) "Congress' purpose in vesting a variety of "discretionary" powers in the courts

was not to limit appellate review of trial courts, or to invite inconsistency and caprice, but rather to make possible the "fashion[ing] [of] the most complete relief possible.""

2. The Defendants and their attorneys – Fitzpatrick & Kosanovich – continue in their efforts to have ALL evidence excluded in an attempt to conceal their criminal acts including their deliberate act of violating the Plaintiff's Constitutional rights in their attempts to hide their criminal acts of defrauding the Court, hiding the theft/misuse of tens of millions of dollars and other illegal actions. They offer not one argument in support of their illegal, unconstitutional acts of issuing the criminal trespass warning on July 1, 2009 to hide their crimes, raiding the Plaintiff's home on the night of July 4, 2011 to intimidate and silence him, refusing to provide police protection in response to terroristic threats in an effort to intimidate him and other whistleblowers, etc. They offer not one argument supporting their illegal, unconstitutional actions as they have none. Their efforts to have the Court strike ALL documentation is an extension of their illegal, unconstitutional acts committed to conceal their crimes. The Court cannot participate in this criminal endeavor.
3. Evidence submitted by the Plaintiff support his reports concerning the unclean hands of the Defendants and their attorneys – Fitzpatrick & Kosanovich. The Defendants and their attorneys – Fitzpatrick & Kosanovich - defrauded the Courts in February 2009 to conceal three decades of criminal activity inside the City of San Antonio and when proof of their crime was presented to elected officials and law enforcement the Defendants issued the illegal, unconstitutional criminal trespass warning, confiscated all the evidence and swore everyone to secrecy.
4. Evidence submitted by the Plaintiff supports his report that the Defendants and their attorneys – Fitzpatrick & Kosanovich – have defrauded THIS Court by stating in recent documents submitted in THIS case that there is no conspiracy . (see July 2, 2013 document, p2, paragraph 4) They defraud

THIS court with their untrue statement “There was no perjury”. (see July 2, 2013 document, page 5 , note at bottom of page)

5. The Plaintiff submits attachments 1-3 showing that additional reports concerning efforts by Bexar County District Attorney to circumvent the law are being published in the press. The ONGOING conspiracy by DA Reed, the Defendants and their attorneys to conceal criminal activity inside the City/County is just one of many such illegal dealings.
6. The Plaintiff submits attachments 4-6 showing that the Defendants and their attorneys continue in their efforts to conceal the fact that the Government of the United States was defrauded of tens of millions of dollars. The sworn affidavits, the HUD-OIG investigation summary and evidence submitted by the Plaintiff in this case show that representatives of the City of San Antonio TX knowingly submitted false statements to federal investigators in HUD-OIG case HL-10-0465 and that federal agent Victoria Marquez refused to interview witnesses, ignored sworn affidavits, ignored published documentation, ignored official court transcripts/depositions, etc. in her efforts to help conceal the fraud/theft.
7. It is clear that any attempt to commit “fraud upon the court” vitiates the entire proceeding. People v. Sterling, 357 Ill. 354; 192 N.E. 229 (1934) (“The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions.”); Moore v. Sievers, 336 Ill. 316; 168 N.E. 259 (1929) (“The maxim that fraud vitiates every transaction into which it enters ...”); In re Village of Willowbrook, 37 Ill.App.2d 393 (1962) (“It is axiomatic that fraud vitiates everything.”); Dunham v. Dunham, 57 Ill.App. 475 (1894), affirmed 162 Ill. 589 (1896); Skelly Oil Co. v. Universal Oil Products Co., 338 Ill.App. 79, 86 N.E.2d 875, 883-4 (1949); Stasel v. The American Home Security Corporation, 362 Ill. 350; 199 N.E. 798 (1935).

8. Fraud upon the court invalidates all orders of the court and causes the case to be null and void *ab initio*. “Fraud upon the court” has been defined by the 7th Circuit Court of Appeals to “embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication.” Kenner v. C.I.R., 387 F.3d 689 (1968); 7 Moore’s Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated “a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final.”

9. Representative Perry quoted by the United States Supreme Court in *Mitchum v. Foster*, 407 U.S. 225, 241, (1972), “judges, having ears to hear, hear not...” . Congress mandates courts to not sit idly by when it is very straightforward to unearth criminal acts by Attorneys and others. Congress mandates courts to protect victims of discrimination and retaliation. See *Monroe v. Pape*, 365 U.S. 167, 180, (1961), *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 418 (1978), *Adickes v. Kress & Co.*, 398 U.S. 144, 219, (1970), *Republican Party of Minnesota Et Al. v. White, Chairperson, Minnesota Board of Judicial Standards*, 536 U.S. 765, (2001), and *Dennis v. Sparks*, 449 U.S. 24, 31, (1980).

10. The doctrine of the United States Supreme Court in Hazel-Atlas, echoed in *Chewing v. Ford Motor Co.*, 354 S.C. 72, 83-84, (2003), “Attorney fraud calls into question the integrity of the judiciary and erodes public confidence in the fairness of our system of justice. Accordingly, where an attorney embarks on a scheme to either suborn perjury or intentionally conceal documents, extrinsic fraud constituting a fraud upon the court occurs.” “We note because fraud upon the court is an affront to the administration of justice, a litigant who has been defrauded need not establish prejudice. Hazel-Atlas Glass Co. v. Hartford-Empire Co., *supra*; Dixon v. Comm’n of Internal Revenue, 2003 WL 1216290 (9th Cir. 2003) (“ . . . the perpetrator of the fraud [upon the court] should not be allowed to dispute the effectiveness of the fraud after the fact.”).”

11. The court has jurisdiction and authority to enter judgment in favor of Plaintiff after additionally taking note of the doctrines of the United States Supreme Court in papers such as *Albemarle Paper Co. v. Moody*, 422 U.S. 405, (1975) and *Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S. 133, (2000). In *Reeves* at 147, "... it is permissible for the trier of fact to infer the ultimate fact of discrimination from the falsity of the employer's explanation. Specifically, we stated: "The factfinder's disbelief of the reasons put forward by the defendant (particularly if disbelief is accompanied by a suspicion of mendacity) may, together with the elements of the prima facie case, suffice to show intentional discrimination. Thus, rejection of the defendant's proffered reasons will permit the trier of fact to infer the ultimate fact of intentional discrimination." *Id.*, at 511. Proof that the defendant's explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination, and it may be quite persuasive. See *id.*, at 517 ("[P]roving the employer's reason false becomes part of (and often considerably assists) the greater enterprise of proving that the real reason was intentional discrimination"). In appropriate circumstances, the trier of fact can reasonably infer from the falsity of the explanation that the employer is dissembling to cover up a discriminatory purpose. Such an inference is consistent with the general principle of evidence law that the fact finder is entitled to consider a party's dishonesty about a material fact as "affirmative evidence of guilt." *Wright v. West*, 505 U. S. 277, 296 (1992);"

Conclusion and Prayer

For the reasons stated herein, Plaintiff requests that the Court deny the Defendant's request that Plaintiff's reply be excluded and all exhibits be stricken.

Respectfully submitted,

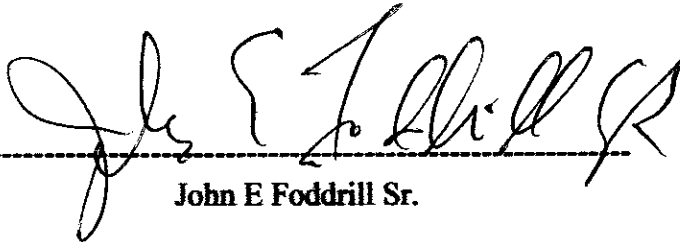


John Edward Foddrill Sr. (Pro Se)
9650 Limestone Pond, San Antonio TX 78254 210-824-3502

CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing response were hand delivered to the U.S. District Clerk's Office at 655 E. Cesar E. Chavez Blvd., Room G65 San Antonio, Texas 78206 and a single copy was mailed by certified U S Mail # 7010 3090 0002 7075 1534 on July 26, 2013 to:

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



John E Foddrill Sr.

Attachments

- 1. San Antonio Express News article of July 22, 2013**
- 2. San Antonio Express News article of July 23, 2013**
- 3. San Antonio Express News article of July 11, 2013**
- 4. Affidavit of Francis B Wells dated August 6, 2012**
- 5. Affidavit of John E Foddrill Sr dated August 20, 2012**
- 6. HUD Office of the Inspector General FOIA response of August 5, 2010**

ATTACHMENT 1

OTHER VIEWS

ALAMO CITY by Robert Maurer

Hypocrisy rampant in DA office

Hypocrisy: feigning to be what one is not or to believe what one does not; especially the false assumption of an appearance of virtue.

Merrill-Webster dictionary

I would submit that the statement above perfectly describes the Bexar County District Attorney's Office during the tenure of Susan Reed.

The facts: The chief of the white collar crimes section had a son who was recently charged with a criminal offense. He received a dismissal based upon completion of a pretrial diversion recommended by a special prosecutor, a local attorney ap-

pointed by the court.

Pretrial diversion programs are routinely used in many other counties to allow first-time, non-violent offenders to prove themselves by performing community service and completing treatment programs to keep the charge off their records. It is not available in Bexar County due to the district attorney's opposition to implementing it for the "normal" citizens.

Further, a few years ago a friend of the district attorney's son received a dismissal on a gun charge through a special prosecutor's recommendation of a pretrial diversion program.

In a recent comment in the

Express-News, Reed's response to the case involving her employee's son was that the court should not be allowed to appoint special prosecutors, only other district attorneys or the attorney general should be allowed to appoint special prosecutors.

Reed's newfound opinion surfaced only after the public outrage in regard to the favorable treatment of select defendants was revealed. Hypocrisy? After public outcry, Reed, in an interview with Express-News columnist Brian Chasnovoff, says she now wishes to become a champion of pretrial diversions for the general public.

However, Reed has opposed diversion programs when initially proposed and had written an opinion piece opposing pre-trial diversions specifically. Her articles and judgments are disingenuous and politically motivated at best, and rank hypocrisy at worst.

Even if such a program is belatedly established, how many common folk lost the opportunity to have the same benefit that family and friends of the district attorney received under Reed's tenure and supervision.

Those who lost out will have their livelihood and families affected for the rest of their lives, unlike family and friends of

Reed. The departure of her driver/bodyguard after the Southwest Airlines stolen ticket debacle also reeks of favoritism and hypocrisy. Reed was not prosecuted by the federal authorities despite having benefited from the stolen tickets.

Favoritism, hypocrisy, failure to accord all citizens accused the same treatment under the law — how long must the voters of Bexar County suffer the whims of Susan Reed?

Robert Maurer is a criminal defense lawyer who has been practicing in Bexar County for 19 years. He is a lifelong member of the Republican Party.

ATTACHMENT 2

Ex-doctor seeking new trial, cites 'bias'

BY CRAIG KAPITAN : JULY 22, 2013 : Updated: July 23, 2013 6:13am

One month after being branded a sex offender who targeted his own patient, ex-physician Calvin Day has asked the judge

Comments 0

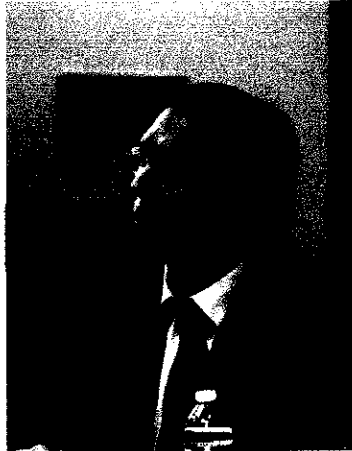
E-mail

Print

Recommend 0

Tweet 0

0



The request claims the prosecution of Calvin Day was "reminiscent of the days of inquisitions."



who

MORE INFORMATION

'Deadlocked' jurors consider doctor's fate

oversaw his jury trial for a do-over.

The 20-page motion, filed late Friday by new defense attorney **Mike McCrum**, rehashes many of the strangest moments of the unfalteringly bizarre four-week trial as alleged evidence of "a classic perfect prejudicial storm that capsized" any hope of a fair verdict.

Prosecutors have again been accused of having ulterior motives for targeting the once-popular San Antonio dermatologist, filing affidavits during the trial "solely for publicity," withholding evidence, improperly referring to Day as a "rapist" and threatening prosecution of his defense attorneys.

1 of 2

The net effect of the prosecutorial misconduct, McCrum wrote, was "a particularly harrowing and alarming situation" that is "reminiscent of the days of inquisitions."

Prosecutors have not yet had an opportunity to file a response to the new trial request and are not sure if they will, said First Assistant District Attorney **Cliff Herberg**. District Attorney **Susan Reed** is out of the country.

"All of these issues were raised before Judge (Ron) Rangel" during the trial, Herberg said. "He's ruled on them already. We believe this motion is without merit."

Judges can order a new trial within 75 days of a sentencing. It will be up to Rangel if a hearing will be conducted to supplement the request.

Day, 62, was convicted by a jury last month and ordered by the same group to serve probation for the August 2010 sexual assault of a then-46-year-old Botox patient.

The woman said Day took her to a secluded area of his office known as the "bat cave" under the pretense of looking at exercise equipment, then groped her chest, exposed himself and penetrated her vagina with his hand.

Seven other women, a mix of former patients and employees, testified during the punishment phase of the trial that they also were subjected to either sexual assault or harassment.

If a new trial is granted by the judge, he will again face the possibility of up to 20 years in prison.

The doctor's case attracted intense media interest, starting with a June 4 hearing the day before jury selection in which he testified that he was being unfairly targeted because the district attorney was a spurned lover who had engaged in a drunken one-night stand with him in Las Vegas seven years prior.

Reed's adamant denial in court that day was described in the new filing as a "scorned rant." Reed also filed affidavits from friends who were with her in Las Vegas to support her version of events — days after the judge ruled in her favor, making them moot — and used her personal Twitter account to point out that lie detector tests can be easily foiled. Day's attorneys had noted a polygraph test supported his sex tryst allegation.

Those actions showed a "biased, inappropriate and personal interest in getting Dr. Day convicted," Day's new request contends.

The new filing also asserts that Reed acted inappropriately by dispatching her first assistant to the courtroom to accuse defense attorneys **Alan Brown** and **Jay Norton** of engaging in a conspiracy to commit witness tampering. The accusation caused a "chilling effect" that made it impossible for Day's attorneys to adequately defend him, McCrum wrote.

The latest filing follows a letter Day sent earlier this month to media outlets and supporters in which he blamed "false accusations" and "fraudulent reporting" for his son's suicide on the same day he was sentenced.

Zachary Day, 29, described as having suffered schizophrenia, "fearlessly and courageously stepped in front of an oncoming truck" on June 26 after parking on the side of Interstate 10, his father wrote.

"Without a doubt, the repeated daily one-sided media bombardment against a dad that Zac idolized made Zachary's life sheer torture and destabilized him to the point that he took his own life to end the torture that the media abuse had on his brain," Day wrote.

He faulted the media for not touting another polygraph test, often cited by supporters but never mentioned during the trial, in which he denied being a sexual predator.

Lie detector tests are not admissible in court because they're based on unreliable science and can easily be manipulated, Herberg said Monday, pointing out that confessed serial killer **Ted Bundy** passed one as well.

"Hopefully, we will get a new trial or win an appeal," Calvin Day wrote in the letter. "Otherwise, I may join old Zac sooner than I had planned."

ckapitan@express-news.net

ATTACHMENT 3

San Antonio Express-News

mysa.com | Thursday, July 11, 2013 | THE VOICE OF SOUTH TEXAS SINCE 1845

COMMENTARY By Brian Chasnoff

Ex-prosecutor says DA favored Sen. Uresti's son

Carlos Uresti Jr. was fortunate in 2004 to have a father in state government.

Even more so, the son of state Sen. Carlos Uresti, who then was serving in the Texas House, was fortunate that Bexar County District Attorney

Susan Reed cared about his father's position, according to a former felony prosecutor in Reed's office.

That year, in the first in a series of run-ins with police involving suspicions of drunken driving, Uresti Jr. was charged

with filing a false report to a peace officer.

Following instructions by Reed, the former prosecutor, Mike Cohen, made certain the charge never was filed in court, he said.

"I remember being called up

to Susan's office," said Cohen, who resigned as a Bexar County prosecutor in 2007. She explained that (Uresti) is a friend of the office, that his son had picked up a misdemeanor of course and we want to approach

Ex-prosecutor resigns as DA

Ex-prosecutor resigns as DA



DA prosecutes favoritism by DA

From page A1

the senator and see if we can help his son out with the case."
"He was trying to push legislation through that she wanted," he continued, "and she wanted to keep him friendly because he's a Democrat and she's a Republican."

I called Reed on Wednesday to ask about the allegation. She called back while I was speaking with the state senator and left a phone message in which she did not acknowledge the allegation. She did not respond to a second message seeking comment. Cohen's allegation comes after Reed recently has taken pains to stress that her office does not favor well-connected suspects.

In May, I wrote that a special prosecutor last year successfully sought the dismissal, in the "interest of justice," of a DWI charge against Truman Biggs, the 18-year-old son of Adriana Biggs, who was the chief of the district attorney's white-collar crimes division.

Appointed by a judge, Charles Bunk, the special prosecutor, never filed the charge in court, although Truman Biggs had registered a blood-alcohol content of 0.17, well above the legal limit of 0.08.

Reed had properly recused herself from the case, but she nonetheless forced Adriana Biggs to resign and filed a motion to reopen the case after I exposed it.

In Bexar County, drunken driving is a deadly epidemic, and Reed has assumed a hard-as-nails stance against the crime, mandating blood draws



BRIAN CHASNOFF
Commentary

called UTSA police and reported his Lexus stolen, according to a police report.

Earlier that morning, someone had crashed the Lexus on a street near campus and fled the scene.

An officer who responded to Uresti Jr. "smelled an odor of an alcoholic beverage emanating from (his) breath," the report stated. Uresti Jr. denied he'd been drinking and claimed he'd left his keys in the ignition when he parked his car.

Suspecting Uresti Jr. had actually wrecked his car, the officer explained to him the consequences of filing a false report to police. Uresti Jr., however, said the car had been stolen.

Uresti Jr., in fact, was lying. And later that day, according to the report, he lied again. Summoned to the UTSA Police Department, he insisted he'd left his keys in the Lexus and discovered the car missing.

Three days later, Uresti Jr. came clean.

Alongside his father and mother, Uresti Jr. told police "how the accident happened, and why, he knowingly, with intent to deceive, filed a false report to (police) regarding the

filed (in court)," although he said he could not remember why.

On Wednesday, the state senator said he couldn't recall why the charge never was filed.

"All I can say is it's been about seven years," Uresti said. "I have no information to show that Susan Reed might have told Cohen to do that. . . . Am I thankful at the end of the day that the charges weren't filed? Of course I am."

More charges

Four months later, a UTSA police officer saw a maroon pickup traveling through a parking lot at an "unsafe speed." The officer then saw Uresti Jr. park in a disabled parking spot, according to another police report.

Asking Uresti Jr. for his driver's license, the officer "detected a strong odor of an alcoholic beverage emanating from (his) breath and observed that his eyes were very glossy and red," the report stated.

This time, Uresti Jr. was charged with driving while intoxicated, and the district attorney's office filed the charge in court. The charge, however, later was dismissed and expunged from Uresti Jr.'s record.

Del Cueto, who again represented Uresti Jr., said a judge at a hearing "ruled that the police officers did not have probable cause" to arrest Uresti Jr. because "they arrested him out-side of his vehicle."

No records of the case exist at the courthouse because the charge was expunged.

Uresti Jr. again was in the clear. But his good fortune did not stem from dangerous behavior.

1604.

The officer lost sight of the pickup as it entered a subdivision, but he found it parked in a driveway. The hood was warm, and a Bud Light beer can lay in front of the pickup, according to the report.

Eventually, someone emerged from the house and told the officer that Uresti Jr. had been driving but fled because "he was scared about what his dad was going to do to him," the report stated.

UTSA police later filed a charge of evading arrest or detention, a state jail felony.

'Weak case'

Once again, the charge against Uresti Jr. didn't stick: Reed's office rejected it.

I called Reed on Wednesday to ask why her office dropped both the false report to a peace officer charge and the evading arrest charge.

In a return phone message, Reed said, "What I recall about (Uresti Jr.) is he had an evading arrest. It was a weak case. We left it pending when he went into the military."

Again, this decision did not improve the behavior of Uresti Jr.

In January 2008, a San Antonio police officer pulled him over for speeding. Noticing bloodshot eyes, the officer requested that he submit to a field sobriety test, but Uresti Jr. refused.

Uresti Jr. "kept requesting I give him a warning and let him go," the officer wrote in a report. Instead, Uresti Jr. was arrested and charged with driving while intoxicated — technically, his first.

Jr.

'Level playing field'

Before Cohen resigned, he and Reed had a falling out.

"As a felony prosecutor, I had a reputation for being pretty fair," Cohen told me. "And so lawyers would come to me with defendants charged with either small amounts of felony possession of drugs or DWIs."

"They were just poor people from the barrio or people that weren't privileged, just people who had a chance — they had a scholarship waiting for college or they had a great job opportunity, and this (charge) was just going to destroy their life."

In some cases, Cohen gave these young defendants a break.

"I would agree to meet with the lawyer, his client, and I'd always try to bring in the parents to make them earn a dismissal. They would have to do community service, they would have to take weekly urinalysis. . . . (About) eight times I did this. And (Reed) caught wind of this."

Cohen said Reed called him to her office, where he protested that if the "privileged or their benefactors can get special treatment," then "people who are just the opposite, whose lives shouldn't be ruined" should not be excluded.

"And she said, 'Well, we're not going to have that,'" Cohen said.

Reed began auditing Cohen's dismissals and later moved him to another section with no authority to dismiss cases, he said.

"I felt real betrayed, very betrayed," he said.

prosecutor last year successfully sought the dismissal, in the "interest of justice," of a DWI charge against Truman Biggs, the 18-year-old son of Adriana Biggs, who was the chief of the district attorney's white-collar-crimes division.

Appointed by a judge, Charles Bunk, the special prosecutor, never filed the charge in court, although Truman Biggs had registered a blood-alcohol content of 0.17, well above the legal limit of 0.08.

Reed had properly recused herself from the case, but she nonetheless forced Adriana Biggs to resign and filed a motion to reopen the case after I exposed it.

In Bexar County, drunken driving is a deadly epidemic, and Reed has assumed a hard-as-nails stance against the crime, mandating blood draws for anyone who refuses a Breathalyzer test.

Cohen, now a defense attorney, joined the Bexar County district attorney's office in 1991. He resigned in 2007 after picking up a charge of possession of marijuana in Nueces County, he said.

"I just tendered a letter of resignation," he told me. "It was an embarrassment to me and the office."

Before his resignation, however, Cohen served as a strong right arm for Reed.

"Susan would tap me to take care of special projects," he said. "We were friends. I was part of that inner circle."

One "special project," he said, involved Uresti Jr.

False report

In 2004, Uresti's son was an 18-year-old student at the University of Texas at San Antonio. At about 5 a.m. on Sept. 24, he

ing from (his) breath," the report stated. Uresti Jr. denied he'd been drinking and claimed he'd left his keys in the ignition when he parked his car.

Suspecting Uresti Jr. had actually wrecked his car, the officer explained to him the consequences of filing a false report to police. Uresti Jr., however, said the car had been stolen.

Uresti Jr., in fact, was lying. And later that day, according to the report, he lied again. Summoned to the UTSA Police Department, he insisted he'd left his keys in the Lexus and discovered the car missing.

Three days later, Uresti Jr. came clean.

Alongside his father and mother, Uresti Jr. told police "how the accident happened, and why, he knowingly, with intent to deceive, filed a false report to (police) regarding the theft of his vehicle," the report stated.

UTSA police filed the charge with the district attorney, but the misdemeanor never made it to court.

Reed "had instructed me to take care of the case," Cohen told me. "I remember relaying that to the senator, and his reaction was, 'Well, I don't expect any special treatment. My son needs to pay for what he did.' But as we got to talking about the case, his concern was that his son wanted to be a Marine because the senator had been a Marine, and they were concerned that (the case) may affect that."

Uresti Jr. "did admit he was drinking" when he crashed the car, Cohen said.

Andrew del Cueto, an attorney who represented Uresti Jr. at the time, confirmed that "nothing happened to that charge. I don't think it ever got

Asking Uresti Jr. for his driver's license, the officer "detected a strong odor of an alcoholic beverage emanating from (his) breath and observed that his eyes were very glossy and red," the report stated.

This time, Uresti Jr. was charged with driving while intoxicated, and the district attorney's office filed the charge in court. The charge, however, later was dismissed and expunged from Uresti Jr.'s record.

Del Cueto, who again represented Uresti Jr., said a judge at a hearing "ruled that the police officers did not have probable cause" to arrest Uresti Jr. because "they arrested him outside of his vehicle."

No records of the case exist at the courthouse because the charge was expunged.

Uresti Jr. again was in the clear. But his good fortune did not stop dangerous behavior.

At 3:25 a.m. on Dec. 21, 2006, UTSA police received a call that a maroon pickup was stopped in a lane on UTSA Boulevard and its passengers were "yelling at passing vehicles."

An officer saw the pickup "turn in circles . . . jumping over curb lines." (The officer also noted two blue stickers in the rear windows that read "Uresti.")

Following the pickup, the officer noticed it swerving and "suspected the driver was driving while intoxicated."

The officer activated his emergency lights and sirens. But Uresti Jr., who was driving, did not stop.

Instead, the report states that he led the officer on a harrowing chase, at times exceeding 90 mph and running a stop sign and two red lights. At one point, Uresti Jr. switched off his headlights and sped onto Loop

to ask why her office dropped both the false charge and the evading officer charge and the evading arrest charge.

In a return phone message, Reed said, "What I recall about (Uresti Jr.) is he had an evading arrest. It was a weak case. We left it pending when he went into the military."

Again, this decision did not improve the behavior of Uresti Jr.

In January 2008, a San Antonio police officer pulled him over for speeding. Noticing bloodshot eyes, the officer requested that he submit to a field sobriety test, but Uresti Jr. refused.

Uresti Jr. "kept requesting I give him a warning and let him go," the officer wrote in a report. Instead, Uresti Jr. was arrested and charged with driving while intoxicated — technically, his first.

This time, the district attorney's office prosecuted.

Uresti Jr. pleaded no contest and received "a two-year probation sentence and a \$600 fine with ignition interlock," Reed said in her phone message, "which was probably a bit more onerous than what was generally done at the time by the courts."

"And I recall that Sen. Uresti was not happy with me, and I think he eventually supported my opponent," Reed added. "So there you have my recollection."

Uresti Jr. now is a paralegal at his father's law firm and did not return a phone call asking for his comments.

Reed did not respond to a second phone message, in which I asked again about Cohen's allegation that Reed asked him to dismiss the 2004 case that was pending against Uresti

I would agree to meet with the lawyer, his client, and I'd always try to bring in the parents to make them earn a dismissal. They would have to do community service, they would have to take weekly urinalysis. . . . (About eight times I did this. And (Reed) caught wind of this.")

Cohen said Reed called him to her office, where he protested that if the "privileged or their benefactors can get special treatment," then "people who are just the opposite, whose lives shouldn't be ruined" should not be excluded.

"And she said, 'Well, we're not going to have that,'" Cohen said.

Reed began auditing Cohen's dismissals and later moved him to another section with no authority to dismiss cases, he said.

"I felt real betrayed, very betrayed," he said.

Beyond the betrayal, Cohen said a sense of injustice is motivating him to blow a whistle against Reed.

"It's just not fair to play favorites," he said. "We should all be on a level playing field — rich, poor, it shouldn't matter."

Del Cueto, Uresti Jr.'s attorney whose law practice partner, Nico LaHood, unsuccessfully campaigned against Reed in 2010, said he wasn't surprised by Cohen's attack.

"Mike Cohen was the scapegoat for the DA's office," he said. "He was the one that Susan used to get her hands dirty because Susan wouldn't do stuff directly. So she used Mike Cohen."

"The problem with Susan is that loyalty only flows up, it never flows down," he continued. "And then you have people she's extremely disloyal to, and they get upset."

ATTACHMENT 4

Before me, the undersigned authority in and for the State and County aforesaid, on this day, personally appeared Francis B. Wells, being by me duly sworn upon his oath deposes and says: My name is Francis B. Wells. I am a citizen of the City of San Antonio and the State of Texas. I am a retired veteran. I can read, write, speak and understand the English language. I make the following statement:

I believe that San Antonio, Texas officials and/or employees submitted false statements and fraudulent internal audits to federal investigators in HUD-OIG case # HL-10-0465 in an effort to hide three decades of fraud and the theft of public and grant funds including HUD funds. I believe that other persons participated in the criminal scheme.

Internal City documents provided to federal investigators including Agent Victoria Marquez, Auditor Michael Hall and others show that the theft/fraud was characterized as "a bottomless pit of money" citing the fact that "The largely unsupervised and unregulated billing of departments across the City under the guise of the telephone "variable" for the past 25 years has resulted in departments having been billed for an untold amount of goods and services from which their department received no benefit". The impact was reported as "millions of dollars". Federal investigators were provided with City emails, recordings, Avaya billing records, invoices, contracts, contract audits, reports, Office of Municipal Integrity intake statements, MI reports, court transcripts, sworn affidavits/depositions, police reports/ correspondence with the FBI-DPS-SAPD-BCSO, witness lists and other information outlining the illegal manipulation of an internal telephone billing account- the "variable" . They were provided in person and in correspondence with detailed information showing how the ITSD internal service fund was used to steal and misappropriate up to \$ 5.2 million a year for decades and how the illegal expenditures were falsely listed as monthly Centrex phone payments to hide the fraud/theft from auditors, banks, bond underwriters, the SEC, grantors, taxpayers, state/federal agencies, etc. Investigators and auditors were provided with information showing that City officials and employees conspired to hide the criminal activity, presented a "fraud upon our courts" financed with public funds, ignored police reports, published fraudulent audits/official statements, issued an illegal/unconstitutional criminal trespass warning banning participation in public meetings in violation of Open Meetings Statutes/OMB regulations and ignored reports from numerous citizens concerning the long-term fraud/theft per instructions issued by City officials.

During a meeting of January 5, 2010 Agent Victoria Marquez stated "I don't care" too many times to count and then refused to interview material witnesses or perform an independent forensic audit. She and other federal officials ignored a wealth of information and allowed City officials/employees to submit a fraudulent internal audit admitting that the City only misspent \$648 of HUD funds via "Radio accounts" during years 2004-8. HUD-OIG officials published a fraudulent report with no mention of the theft/fraud involving the illegal manipulation of the telephone "variable" service fund/telephone accounts/budgets during the last twenty-five years and allowed HUD Inspector General Donohue to present the false information to members of Congress including Texas Congressmen Lamar Smith and Ciro Rodriguez.

I demand a full investigation, a complete forensic audit, that our money be recovered and that criminal charges be filed against ALL persons involved in the theft/fraud and the ongoing criminal conspiracy to hide the crimes.

This statement is true and correct to the best of my recollection.

Signature

Francis B. Wells

Francis B. Wells

Sworn to and subscribed before me this 06 day of August, 2012.

Rokanne Huddleston

Notary Public in and for Bexar County, Texas



ATTACHMENT 5

Before me, the undersigned authority in and for the State and County aforesaid, on this day, personally appeared John E. Foddrill Sr., being by me duly sworn upon his oath deposes and says: My name is John E. Foddrill Sr. I am a citizen of the City of San Antonio and the State of Texas. I can read, write, speak and understand the English Language. I make the following statement:

I believe that San Antonio, Texas officials and/or employees submitted false statements and fraudulent internal audits to federal investigators in HUD-OIG case # HL-10-0465 in an effort to hide three decades of fraud and the theft of public and grant funds including HUD funds. I believe that other persons participated in the criminal scheme.

Internal City documents provided to federal investigators including Agent Victoria Marquez, Auditor Michael Hall and others show that the theft/fraud was characterized as "a bottomless pit of money" citing the fact that "The largely unsupervised and unregulated billing of departments across the City under the guise of the telephone "variable" for the last 25 years has resulted in departments having been billed for an untold amount of goods and services from which their department received no benefit". The impact was reported as "millions of dollars". Federal investigators were provided with City emails, recordings, Avaya billing records, invoices, contracts, contract audits, reports, Office of Municipal Integrity intake statements, MI reports, court transcripts, sworn affidavits/depositions, police reports/ correspondence with the FBI-DPS-SAPD-BCSO, witness lists and other information outlining the illegal manipulation of an internal telephone billing account- the "variable" . They were provided in person and in correspondence with detailed information showing how the ITSD internal service fund was used to steal and misappropriate up to \$ 5.2 million a year for decades and how the illegal expenditures were falsely listed as monthly Centrex phone payments to hide the fraud/theft from auditors, banks, bond underwriters, the SEC, grantors, taxpayers, state/federal agencies, etc. Investigators and auditors were provided with information showing that City officials and employees conspired to hide the criminal activity, presented a "fraud upon our courts" financed with public funds, ignored police reports, published fraudulent audits/official statements, issued an illegal/unconstitutional criminal trespass warning banning participation in public meetings in violation of Open Meetings Statutes/OMB regulations and ignored reports from numerous citizens concerning the long-term fraud/theft per instructions issued by City officials.

During a meeting of January 5, 2010 Agent Victoria Marquez stated "I don't care" too many times to count and then refused to interview material witnesses or perform an independent forensic audit. She and other federal officials ignored a wealth of information and allowed City officials/employees to submit a fraudulent internal audit admitting that the City only misspent \$648 of HUD funds via "Radio accounts" during years 2004-8. HUD-OIG officials published a fraudulent report with no mention of the theft/fraud involving the illegal manipulation of the telephone "variable" service fund/telephone accounts/budgets during the last twenty-five years and allowed HUD Inspector General Donohue to present the false information to members of Congress including Texas Congressmen Lamar Smith and Ciro Rodriguez.

I demand a full investigation, a complete forensic audit, that our money be recovered and that criminal charges be filed against ALL persons involved in the theft/fraud and the ongoing criminal conspiracy to hide the crimes.

This statement is true and correct to the best of my recollection.

Signature John E. Foddrill Sr.
John E. Foddrill Sr.

Sworn to and subscribed before me this 20 day of August, 2012.



Peter De Luna
Notary Public in and for Bexar County, Texas

ATTACHMENT 6

b4 [redacted] *b6* [redacted] met with City officials and staff on multiple occasions to discuss Mr. Foddrill's allegation. The City completed an internal investigation and submitted a spreadsheet to OIG showing it mispent \$648 of HUD funds from FY2004 through FY2008. According to the City, the ineligible costs were charged to the "Radio" accounts.

Conclusion

Mr. Foddrill requested review of numerous items. The OIG Office of Audit determined that of all the allegations, the only one that was within the purview of the Office of Audit and that warranted at least preliminary review was in regards to the alleged inappropriate telephone surcharges/communications. According to the City's recent internal investigation, only \$648 was spent for ineligible costs over about a four year period. Given the results of the City's investigation, prior reviews by the City, involvement in some matters by the City's police department, and OIG Office of Investigation work, we concluded that additional audit work regarding the allegations is not warranted and we will close our files.

Reference the below 3/23/10 email from [redacted], the Office of Investigation [redacted]. In discussions with ASAC [redacted], Houston, [redacted]

[redacted] *b5* *b7c*

●Gerald Kirkland 02/09/2010 01:09 PM

To: Frank Rokosz/[redacted] *b6* *b7c*
cc: Michael Kirby/[redacted] G, Jacob Williams [redacted] *b6*

Subject: Re: Hotline Referral HL-2010-0465 ☐

To: Frank Rokosz/[redacted] *b6* *b7c*
cc: Michael Kirby/[redacted] Jacob Williams [redacted] *b6*

Subject: Re: Hotline Referral HL-2010-0465 ☐

Frank

Reference the below, on Jan 5, 2010, Special Agent [redacted] and HUD OIG Senior Auditor Michael Hall met with the complainant. Unknown to either [redacted] or Hall, the complainant recorded the meeting. Subsequently, I have been informed of the following:

b6 [redacted] on the \$30,000 used for a retirement party. Two other issues were not included on the complaint intake form, but Mr. Foddrill did mention them during our interview. The other issues were (1) telephone surcharges, and (2) lack of federal reimbursement for returned telephone equipment. San Antonio's Deputy Finance Director has an internal forensic auditor looking into the surcharges and when they ceased. The Office of Audit does not plan to

Office of Inspector General

451 7th St., SW
Washington, DC 20410

AUG - 5 2010

03/23/2010 12:10 PM

[Redacted] b4
[Redacted] b4
[Redacted] D Beard
Gerald Kirkland [Redacted] b6

Subject: RE: FW: Congressional Hotline from Congressman Lamar Smith
re: complainant [Redacted] re: City of San Antonio

Kim... [Redacted]
[Redacted]

Mike

Michael R. Kirby
Director
Program Integrity Division

[Redacted] b6

From: Randall, Kimberly
Sent: Tuesday, March 23, 2010 1:07 PM
To: Kirby, Michael b6
Cc: [Redacted] b4; Beard, D; [Redacted] b6
Subject: Fw: FW: Congressional Hotline from Congressman Lamar Smith re: complainant [Redacted]
Wells re: City of San Antonio

Mike,

I spoke with RIGA [Redacted] As the complaint indicates, OI and OA got this complaint sometime last fall and an agent and auditor visited with the complainant. Based on the interview and the related documentation, they determined that the allegations were mainly criminal. Jerry does not recall having heard from OI what actions, if any, they planned to take. However, OA is interested in one audit issue, regarding the possible misuse of HUD funds to pay \$723,000 for City communication costs (phones, networks, cable, equipment, etc.) that may not be eligible under the HUD programs. Jerry plans to have his staff do some preliminary work on the communications cost issue when resources allow, in approximately 2 months.

If you need anything further, let me know.

Kim Randall, CPA, CFE
Acting Assistant Director, Technical Oversight and Planning Division
HUD Office of Inspector General, Office of Audit

[Redacted] b6
[Redacted] b6