



Texas County Sues State Attorney General Over Election Records

In the latest election kerfuffle in the Lone Star State, Travis County, Texas, is [suing](#) Texas Attorney General Ken Paxton in order to avoid releasing documents sought in a public information request. Election activists are viewing the case as another argument for paper ballots.

Readers of *The New American* will remember our article last fall detailing the lawsuit of Austinite Dr. [Laura Pressley](#) against Travis County after her unsuccessful run for a city council seat in 2014. Dr. Pressley's simple pursuit of a vote recount led to the revelation of widespread election irregularities in many Texas counties. Now Travis County, in an unrelated case, is suing the Texas attorney general after being ordered to release documents requested in the case.



As an election integrity activist, and based on her experience in pursuing a recount after her City Council bid, Dr. Pressley wanted to know in advance of the November election if Texas elections would be administered according to law. So, in August of 2016, she submitted a Public Information Request (PIR — similar to a FOIA request, only at the state level) hoping to determine if other irregularities existed in Texas. (Filed two years after her lawsuit, the PIR is unrelated to the original case.) The primary objective of the request was to obtain e-mail communications between the Travis County elections administrator and three other parties — Hart InterCivic, the Texas secretary of state, and Harris County (Houston) election administrators.

Hart InterCivic is the largest electronic voting-machine vendor in the state and counts 100 of Texas' 254 counties among its customers. Knowing that it's common for elections administrators to communicate with each other regarding election questions, Dr. Pressley applied the request to Travis County because it's where she lives, and Harris County because it's Hart's largest customer both in Texas and in the country. But she never got the data.

Instead, she received an e-mail from Travis County that the county would be withholding three e-mails because of confidentiality and trade-secret issues, and that they would be requesting an opinion of the state attorney general. There are limited exceptions to complying with a PIR and the county sought to get its exceptions upheld — for the purpose of not releasing three of the e-mail communications.

The attorney general's office regularly receives requests for opinions, and reviews all the requested communications. Travis County also relied on the submission of the e-mail records in order to document its legal position. It should be noted that Pressley has not yet seen the documents. After a thorough



Written by [Kelly Holt](#) on February 23, 2017

review, the AG ultimately decided that the criteria for the requested exception weren't met, and no trade secret or proprietary risks existed, so ordered Travis County to release the requested e-mail communications.

The AG's opinion is usually the final word. What is unusual about this case is that, in spite of the attorney general's finding that the documents contained nothing sensitive, Travis County refused to comply, and instead filed a lawsuit against the state office. The case, [David A. Escamilla v. Ken Paxton](#), was filed in District Court in February and is pending the AG's response.

Part of the county's petition states that releasing the documents could pose a security risk, or expose the county to "possible acts of terrorism or criminal related activity." But election analysts in Texas asked several pointed questions about this case — if the AG has ruled that no risk to the county or Hart InterCivic existed, then why is Travis County refusing to comply? Speculations include that the three e-mails in question could reveal information in Pressley's earlier case that would compromise Travis County. The section of the Texas code regarding such matters reads thus:

Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.

(b) This chapter shall be liberally construed in favor of granting a request for information.

There seems to be little room for Travis County's position of refusing to comply, and according the code it cannot withhold information, so one wonders why it is doing so.

Of even greater concern is the portion of the petition that states, "In addition, the County claims the release of the requested information could 'expose particular weaknesses of the network that may allow people engaged in terrorist threats to damage or hack into the network.'"

Analysts also question if weaknesses exist in the network that can be exposed, it's the existence of the weaknesses in the first place, not their exposure, that are cause for worry.

Pressley added, "Apparently, three emails stand between our candidates and hacked elections. If we are that vulnerable and the systems are beyond the scrutiny of the public, then all of Hart's customers may be at risk. The Attorney General is to be commended for upholding the law in regard to Public Information Requests."

Election activists across the state are watching this case closely. One unnamed critic summed it up nicely: "If the release of three e-mails can expose system vulnerabilities or expose us to terrorist activity, isn't that an argument for paper ballots?"

Incidentally, Pressley has not been named a party in the lawsuit, and her original case is being prepared to go before the Texas Supreme Court for review in March.



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