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**SPECIAL REPORT OF THE 390TH GRAND JURY REGARDING THE
INVESTIGATION OF THE CONDUCT OF A UNIVERSITY OF TEXAS SYSTEM
REGENT**

TO: The Honorable Judge Julie Kocurek

FROM: 390th Grand Jury, October 1 to December 31, 2014 Term (extended to March 31, 2015)

SUBJECT: Grand Jury report concerning the investigation of the conduct of a University of Texas System Regent in regard to open records requests and dissemination of confidential information

OVERVIEW

The 390th Grand Jury (hereinafter Grand Jury) considered possible indictments of The University of Texas System (hereinafter System) Regent Wallace L. Hall, Jr. (hereinafter Hall or the regent), regarding his involvement in various University of Texas at Austin (hereinafter university) open records requests and dissemination of confidential information. The Special Investigation Section of the Travis County District Attorney's Office was asked by the Texas Legislature to investigate further after the Legislature censured the regent.

The censure resulted from the findings of the House Select Committee on Transparency in State Agency Operations (hereinafter the committee), which was empowered to investigate the in three areas of inquiry: "(1) Did Hall fail to disclose material information on his regent application? (2) Did Hall reveal information about students that violated their privacy? and (3) Did Hall exceed his role as a regent by constantly requesting massive information from the University of Texas?"

COMPLAINT

The Special Investigation Section of the Travis County District Attorney's Office posed to the Grand Jury the following question: Does probable cause exist to indict the university regent for violating Texas Penal Code 39.02 (Abuse of Official Capacity), Texas Penal Code 39.06 (Misuse of Official Information), Texas Penal Code 39.03 (Official Oppression), or some other applicable Texas statute?

INVESTIGATION

The Grand Jury considered the following information during its term:

- Investigative Report to the House Select Committee on Transparency in State Agency Operations regarding Conduct by University of Texas Regent Wallace Hall and Impeachment Under the June 25, 2013 Proclamation (hereinafter referred to as the Investigative Report)
- Documented testimony from the House Select Committee meetings
- Various witnesses with information relevant to the investigation



Filed in The District Court
of Travis County, Texas
on 3-30-15
at 4:42 p.m.
V. V. Pines, District Clerk

The Grand Jury took no action on this complaint. However, we have chosen to issue this report because, as citizens, we are appalled at the behavior of the regent subject to the investigation. This report reiterates concerns that appear in the Investigative Report, as well as our additional concerns.

BACKGROUND

Regent Hall made open record requests involving more than 800,000 pages of documents, which cost the university over \$1,000,000 to prepare. He even made some requests twice—once as a regent and once as a private citizen. Hall never divulged what purpose or goal he had padlocked in his mind before launching this immense barrage of records requests, rapid firing them in a fashion seemingly intended to deteriorate the systems in place. Furthermore, it does not appear that he discussed his intent with the other regents to gain consensus on this level of use of university resources.

Based on the size of the university's open records request staff, his deadlines were unreasonable. During the time that the open records requests were being completed, Hall pressured university staff to provide the information more quickly. At one point this pressure resulted in System providing him access to records not fully redacted for federal student confidentiality protection. When directed by System legal staff to not release these confidential student records, he disregarded that advice, releasing the information to the Attorney General's Office and his lawyer.

OBSERVATIONS AND COMMENTS

Based on the information we reviewed, we are appalled at the Regent's unaccountable and abusive behavior.

Transparency and accountability are key elements in maintaining citizens' trust in their government. Regent Hall demonstrated neither accountability nor transparency in his actions.

It does not appear that any value to System resulted from Hall's open records requests. We were not made aware of any action he took based on his use of the information obtained to improve the university or System.

Actually, Hall's lack of transparency increased the cost of providing the data requested. Several times university personnel asked for clarification of the Regent's open records requests in order to save time in obtaining the specific records he needed. The Regent refused to provide any information to make the search more efficient.

His refusal to speak with the Legislative Committee or the Grand Jury implies a disregard for transparency and accountability for his actions. Also inconsistent with transparency is Hall's habit of communicating orders verbally to others to have them act on his behalf. With no written record of his communication, his motives and actions are shielded from direct scrutiny or reconstruction.



Hall did not discuss his intentions or plans for the voluminous open records requests with the other regents to gain consensus on such a large expenditure of university resources. Neither did the other regents prevent, monitor, or control such rogue actions by one member.

Hall used his positional power to the point of abuse. The over leveraging of his power resulted in lost talent, lowered morale, exposure of confidential student information, and unreasonable expenses.

When directed by legal staff to not release confidential student information, Hall disregarded that advice, further jeopardizing the confidentiality of these records. It is known that he released the confidential information to the Attorney General's Office and his lawyer.

Shortly after he accessed the confidential student information at System, some of this confidential data appeared in the public domain and became the subject of numerous press articles attempting to defame university and state officials. We believe his pressure on System to circumvent university confidential information security measures and his release of confidential data (provided for his undisclosed purpose) likely contributed, either directly or indirectly, to the leak.

When the university rightfully attempted to follow its established procedures to protect confidential data, Hall demonstrated a pattern of disrespect to various System and university personnel. He pressured System and university executives to take personnel action against selected employees. Some targeted employees subsequently left System, and those that remain are still subject to his influence and abuse.

Hall made repeated and excessive requests with nearly impossible deadlines, overwhelming a system not suited to such abusive excess. He further burdened the system by making some requests twice, once as a regent and once as a private citizen. Outrageously, after requiring university staff to double their effort to fulfill these parallel requests, he actually requested not to be charged (like other private citizens are) for the cost of his private open records requests.

RECOMMENDATIONS

Based on the concerns expressed in this report, we, as citizens, feel it is in the best interest of the State of Texas to remove Regent Hall from office.

To help prevent abuse and to improve transparency and accountability, we further recommend that the University of Texas Board of Regents consider the following:

- Revise policies, rules, or regulations to:
 - o Require board approval for expenditures over a preset limit of System or individual university resources for regent requests, investigations, or projects
 - o Require a stated objective for open records requests by regents
 - o Clarify definitions of confidential student information and specify consequences for individuals distributing confidential data.



- Charge Regent Hall and all other regents for any private citizen open records requests that they submit.
- Require regents to use university email accounts for all official business as is the practice for other employees.

Respectfully submitted,

390th Grand Jury

