

Lambright believes treasurer's data breach avoidable; Davenport says her office followed AG ruling on redactions

By Catherine Dominguez, cdominguez@hcnonline.com Updated 8:39 am, Saturday, March 10, 2018

Photo: Jason Fochtman, Staff Photographer



Montgomery County Treasurer Stephanie Davenport



Melanie Bush



Montgomery County Attorney JD Lambright

Three months after delaying the release of procedure manuals through a request for an attorney general's ruling over concern of putting Montgomery County at risk, County Treasurer Stephanie Davenport finally released the documents Thursday at the direction of the AG's Office but did not redact some personal information of more than 50 current and former county employees. That information was posted through links on a couple of individuals' social media

pages, and officials did not know how many others had seen or downloaded the documents from those sites.

Davenport said she did exactly as she was instructed by the AG's Office. However, after being informed late Thursday night that personal information was included in the released documents, she sent an email to Melanie Bush at 11:13 p.m. stating, "Please consider the documents sent to you by my department today, sealed. Please delete the file. We need to review the redactions further."

Of the dozens of names, the documents show the entire Social Security number, date of birth and name of 16 people. The remaining names have the Social Security number partially redacted. Nobody in county government could verify whether the employees whose names were involved in the released information had been notified.

Davenport, who lost her bid for a second four-year term as treasurer to Bush in Tuesday's Republican primary election, said she confirmed with the AG's Office Friday "that the information we released was as they intended for us to release. We did not redact extra information as this would have been in violation of the Attorney General's Order."

"I have stated all along that this information should not be distributed," Davenport said. "I was advised by the County Attorney that any AG Opinion received would have to be followed and submitted to the requestors."

On Feb. 28, the AG released its ruling regarding Bush's Dec. 1 request. The AG's ruling stated the Treasurer's Office must release the manuals but redact "access device numbers" (under Section 552.13 6 of the Government Code); employees' dates of birth (under Section 552.102(a) of the code); and Social Security numbers (under Section 552.147).

The ruling specifically addressed Social Security numbers noting "Section 552.147(a) of the Government Code excepts the Social Security number of a living individual from public disclosure. Gov't Code§ 552.147(a). Accordingly, the treasurer's office may withhold all social security numbers in the remaining information under section 552.147 of the Government Code."

In a statement, County Attorney J D Lambricht said it is his "understanding that this release occurred because the treasurer's office simply redacted information based solely on the notations from the Attorney General's Office, rather than applying the actual Attorney General Letter Ruling that was sent directly to the treasurer on February 28, 2018."

According to Lambricht, the AG's Office identified "some" exceptions to the act directly on the documents. However, he said, it was Davenport's responsibility for completing the redactions in accordance with both the AG ruling and the exception the AG noted on the physical documents.

Bush, who is the Conroe ISD board president and owner of Better Bookkeepers, who originally requested the policies and manuals Dec. 1, received the documents and noticed the un-redacted Social Security numbers and birth dates Thursday evening and immediately contacted Lambricht. Bush said she did nothing further with the documents and did not post the information online. Davenport then emailed the recall notice.

According to Bush, she contacted Davenport's office Friday morning to ensure the issue was being addressed and that the county commissioners were made aware in an effort to protect those affected by the breach. However, Deputy Treasurer Judy Tarango told Bush she and Davenport redacted what they were advised to redact and released the information. Bush said she was told what happens to the information from there was beyond their control.

Precinct 3 Commissioner James Noack said Davenport should have used the County Attorney's Office to assist in redacting the information. "That is why the people of Montgomery County elect the county attorney," Noack said. "I regret that any employee information was erroneously released and I question why employees' Social Security numbers would be used in a training manual. That is very concerning."

Calls to the AG's Office were not returned before press time.

"It is unfortunate that the treasurer, once again, chose to handle this matter internally within her office, rather than seek our legal advice," Lambright stated. "This situation was totally and completely avoidable."

But Davenport said Lambright's office offered little guidance. "The lack of support and politics by the County Attorney's Office led my office to seek an AG opinion on our own," Davenport said. "The county attorney received the redactions from the AG first, had them on their computer and then gave us a copy on a CD for us to complete the redactions and distribute. "If they believed further redactions or consultation with the AG was needed, they should have told us, as they had already reviewed the documents."

While Davenport first agreed to release the information in December, she changed her mind despite the County Attorney's Office advising her to redact the documents and release them. Davenport denied the release of the information and then sought a ruling from the AG's Office.

District Attorney Brett Ligon said his office has not received any complaint or information on the situation and he could not comment.

Bush said her concern at this point was "to help take care of the individuals whose data was breached." "While I feel this was an avoidable breach, I recognize how this error occurred," Bush said. "When the manuals were returned with the information noted to be redacted, they were disseminated to the requestors without a review by the treasurer or County Attorney's Office. When proper protocols are not followed, errors occur."

"This one, however, is serious and needs to be dealt with appropriately to ensure that the breached individuals are notified and their credit monitored for a period of years. Upon my discovery of the error, I did everything in my power to mitigate the damage, as I would hope anyone would."

In her original submission last year, Bush requested the procedure manual in which Davenport said she created in 2014. Davenport originally agreed to release the information but claimed in a December commissioners court meeting she was given "bad advice" from the County Attorney's Office regarding the situation and releasing the information. However, Lambright's office advised Davenport to redact the required information and release the documents which is what the AG's Office ultimately ruled Davenport should do.

Lambright told commissioners during that same meeting Davenport spoke that his office did not give Davenport bad advice adding that his office supports the public's right to information and the Public Information Act. Lambright said his office is working "diligently to assess the full extent of the situation and determine the appropriate remedial step."

Bush soared to an easy victory over Davenport in the Republican primary. Bush will now face Democrat Mandy Sunderland in the November general election. Bush pulled in an impressive 66.06 percent of the votes (29,614) to Davenport's 33.94 percent (15,213 votes).