

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001
512/424-2000

www.dps.texas.gov



STEVEN C. McCRAW
DIRECTOR
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DEPUTY DIRECTORS



COMMISSION
STEVEN P. MACH, CHAIRMAN
NELDA L. BLAIR
STEVE H. STODGHILL
DALE WAINWRIGHT

June 21, 2022

Via Email

Emma Lewis
American Oversight
1030 15th Street NW, Suite B255
Washington, DC 20005
records@americanoversight.org

RE: Public Information Request for communications and records related to Governor Abbott's order of April 6, 2022, for enhanced safety inspections of vehicles crossing international ports of entry into Texas. (PIR 22-1576)

Ms. Lewis:

The Department received your above-referenced request on June 7, 2022. The Department has located records responsive to your request; however, we believe some or all of the records may be excepted from required public disclosure at this time. We are seeking a ruling from the attorney general's office with respect to disclosure of these records, and a copy of our request letter is enclosed. You will be notified directly by the attorney general's office when a ruling is issued. Attached are the records we believe are available to you at this time.

If you have any questions regarding this request, please submit them in writing to ogc.webmaster@dps.texas.gov.

Cordially,

A handwritten signature in black ink that reads 'ML Calcote'.

ML Calcote
Assistant General Counsel

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June 21, 2022

Via First Class Mail

Attorney General of Texas
Open Records Division
PO Box 12548
Austin, Texas 78711-2548

RE: Public Information Request for communications and records related to Governor Abbott's order of April 6, 2022, for enhanced safety inspections of vehicles crossing international ports of entry into Texas. (PIR 22-1576)

DATE REQUEST FOR INFORMATION PIR 22-1576 RECEIVED:
DATE REQUEST FOR RULING SUBMITTED TO ATTORNEY GENERAL:

06/07/2022
06/21/2022

Dear Open Records Division:

The Department of Public Safety received the above-referenced request for information from Emma Lewis on June 7, 2022. We believe some or all of the requested information is excepted from required public disclosure pursuant to sections 552.111 of the Texas Government Code. Accordingly, we are requesting a ruling regarding the release of these records.

Section 552.111 states that “[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency is excepted from the requirements of Section 552.021.” Section 552.111 encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 2 (1993). The purpose of this exception is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. *See Austin v. City of San Antonio*, 630 S. W.2d 391, 394 (Tex. App.-San Antonio 1982, orig. proceeding); Open Records Decision No. 538 at 1-2 (1990).

Your office has also concluded a preliminary draft of a document intended for public release in its final form necessarily represents the drafter's advice, opinion, and recommendation with regard to the form and content of the final document, so as to be excepted from disclosure under section 552.111. *See* Open Records Decision No. 559 at 2 (1990) (applying statutory predecessor). Section 552.111 protects factual information in the draft that also will be included in the final version of the document. *See id.* at 2-3. Thus, section 552.111 encompasses the entire contents, including

comments, underlining, deletions, and proofreading marks, of a preliminary draft of a policymaking document that will be released to the public in its final form. *See id.* at 2.

In Open Records Decision No. 615, your office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.-Austin 1992, orig. proceeding). Your office determined section 552.111 excepts from disclosure only those internal communications that consist of advice, opinions, recommendations, and other material reflecting the policymaking processes of the governmental body. *See* ORD 615 at 5. Further, section 552.111 does not protect facts and written observations of facts and events that are severable from advice, opinions, and recommendations. *Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152 (Tex. App.-Austin 2001, no pet); *see* ORD 615 at 5. But if factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make severance of the factual data impractical, the factual information also may be withheld under section 552.111. *See* Open Records Decision No. 313 at 3 (1982). The marked records consist of drafts of documents and communications among Department staff regarding these drafts and communications between. These records reflect the discussions and thought processes by and among Department personnel in developing these documents and policies.

Some of the responsive records consist of communications among Department staff and the governor's office staff regarding these drafts and the content of those documents or communications between and among OOG employees and the Department communicating in their policy-making capacities. These records reflect the discussions and thought processes by and among Department personnel and the governor's office personnel in developing these documents and policies. Therefore, the Department believes the marked records are excepted from disclosure under section 552.111 of the Government Code.

Please find enclosed the request from Emma Lewis, the responsive records we believe are excepted from required disclosure and the notice of our request for a ruling sent to the requestor. Please feel free to contact me at (512) 424-2890 if you have any questions.

Cordially,



ML Calcote
Assistant General Counsel

Enclosure(s)

cc: Emma Lewis
American Oversight
1030 15th Street NW, Suite B255
Washington, DC 20005
records@americanoversight.org

From: [McCraw, Steven](#)
To: [McCraw, Steven](#)
Subject: Fwd: Houston Chronicle
Date: Wednesday, April 13, 2022 1:19:23 PM
Attachments: [image001.png](#)
[image002.jpg](#)

Begin forwarded message:

From: "Martin, Freeman" <Freeman.Martin@dps.texas.gov>
Date: April 13, 2022 at 11:15:20 AM CDT
To: "McCraw, Steven" <Steven.McCraw@dps.texas.gov>, "Mathis, Dwight" <Dwight.Mathis@dps.texas.gov>, "Williams, Jeoff" <Jeoff.Williams@dps.texas.gov>, "Michael W. Hull (michael.hull@gov.texas.gov)" <michael.hull@gov.texas.gov>, "Escalon, Victor" <Victor.Escalon@dps.texas.gov>, "Considine, Travis" <Travis.Considine@dps.texas.gov>, "Cooper, Kevin" <Kevin.Cooper@dps.texas.gov>
Subject: Houston Chronicle

Gov. Greg Abbott ready to ease border truck inspections, Mexican official says

<!--[if !vml]-->  <!--[endif]-->

[Jeremy Wallace](#), Austin Bureau

April 13, 2022 Updated: April 13, 2022 10:29 a.m.

[Comments](#)

image002.jpg

Trucks wait in line to cross into the United States on the Mexican side of the border of the Colombia Solidarity International Bridge, or Bridge III, on April 12, 2022 shown via the City of Laredo's bridge camera.

Screencap / City of Laredo

Texas Gov. Greg Abbott has agreed to ease inspections of truck traffic coming from Mexico, according to the governor of the Mexican state on the other side of the border from Laredo. Nuevo Leon Gov. Samuel Alejandro Garcia Sepulveda spoke directly earlier this week to Abbott on behalf of business leaders and customs agents about the inspections that have resulted in [hours-long delays for commercial truck shipments coming from Mexico](#), according to a report from KGNS-TV in Laredo.

He told reporters in Mexico that Abbott has agreed to ease the inspections in return for security commitments.

Abbott's office has not confirmed the conversation with Garcia, but they have planned a 2 p.m. meeting with the Nuevo Leon governor today in Laredo.

Last week, Abbott stepped up mechanical inspections of trucks coming from Mexico as part of a ramped-up border security policy. Texas Department of Public Safety officials already stop incoming trucks when they see safety violations. But Abbott directed DPS to start stopping every truck for inspections than can take up to an hour — even after the same trucks have passed through U.S. Customs checkpoints.

IN-DEPTH: [Beto O'Rourke, trucking companies say Abbott 'wreaked havoc' at border with latest crackdown](#)

Shipping companies say the increased inspections have led to backups of trucks over key bridges between Texas and Mexico, resulting in hours-long delays to get across the border when it normally can take less than 30 minutes. White House officials said today that [commercial traffic at the border has dropped by as much as 60 percent](#).

Laredo, the busiest trucking port in America, was hard hit by delays on Tuesday with it taking as long as 3 hours for trucks to cross the border.

Truckers who transport goods from Mexico to the U.S. are paid by the number of loads they bring across. Truckers that used to get back and fourth four times a day were reporting making only one trip a day at some ports. That lost pay has resulted in protests in Mexico where truckers have blockaded two entry points to stop incoming U.S. trade and put pressure on Abbott to resolve delays.

The delays have created a political storm for Abbott where South Texas business and agriculture groups have sent letters to him calling on him to reverse course. In addition, Texas Agriculture Commissioner Sid Miller, a Republican, [has called Abbott's actions "political theater" that is "stopping food from getting to grocery store shelves."](#)

Democrat Beto O'Rourke has also stepped up his campaign against Abbott by [blasting the inspections as damaging for the South Texas economy](#) where international trade is vital. More than 2.5 million trucks travel through Laredo annually, making it by far the nation's biggest trucking port.

Freeman F. Martin
Lt. Colonel / Deputy Director
Texas Department of Public Safety

From: [McCraw, Steven](#)
To: [Todd Bensman](#)
Subject: Fwd: MEDIA ADVISORY: Governor Abbott To Hold Meeting, Press Conference With Nuevo León Governor García In Laredo
Date: Wednesday, April 13, 2022 7:33:57 AM

Begin forwarded message:

From: "Considine, Travis" <Travis.Considine@dps.texas.gov>
Date: April 13, 2022 at 7:30:15 AM CDT
To: "McCraw, Steven" <Steven.McCraw@dps.texas.gov>, "Martin, Freeman" <Freeman.Martin@dps.texas.gov>, "Mathis, Dwight" <Dwight.Mathis@dps.texas.gov>, "Williams, Jeoff" <Jeoff.Williams@dps.texas.gov>, "Escalon, Victor" <Victor.Escalon@dps.texas.gov>
Cc: "Yanez, Sophie (Director's Office)" <Sophie.Yanez@dps.texas.gov>
Subject: Fwd: MEDIA ADVISORY: Governor Abbott To Hold Meeting, Press Conference With Nuevo León Governor García In Laredo

Begin forwarded message:

From: Governor Greg Abbott Press Office
<GovernorAbbottPress@public.govdelivery.com>
Date: April 12, 2022 at 10:36:03 PM CDT
To: "Considine, Travis" <Travis.Considine@dps.texas.gov>
Subject: MEDIA ADVISORY: Governor Abbott To Hold Meeting, Press Conference With Nuevo León Governor García In Laredo
Reply-To: GovernorAbbottPress@public.govdelivery.com

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The State Of Texas Governor Seal



For Immediate Distribution | April 12, 2022 | (512) 463-1826

MEDIA ADVISORY: Governor Abbott To Hold Meeting, Press Conference With Nuevo León Governor García In Laredo

AUSTIN – Governor Greg Abbott will meet with Nuevo León Governor Samuel Alejandro García Sepúlveda and hold a press conference following the discussion tomorrow, April 13, in Laredo.

WHO: Governor Abbott
Nuevo León Governor García

WHAT: Press conference

WHEN: Tomorrow, April 13 at 2:00 PM
Media setup begins at 1:30 PM

WHERE: Texas Department of Public Safety
Colombia Solidarity Permanent Border Safety Inspection Facility (BSIF)
801 FM 255
Laredo, TX 78045
Lat: 27.7071 Lon: -99.7342

*Mult-box provided

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From: [Cooper, Kevin](#)
To: [Olivia Lu](#)
Subject: Fwd: MEDIA ADVISORY: Governor Abbott To Hold Press Conference With Tamaulipas Governor Cabeza de Vaca In Weslaco
Date: Friday, April 15, 2022 10:26:57 AM

Begin forwarded message:

From: Governor Greg Abbott Press Office <GovernorAbbottPress@public.govdelivery.com>
Date: April 15, 2022 at 9:02:00 AM CDT
To: jkevco@gmail.com
Subject: **MEDIA ADVISORY: Governor Abbott To Hold Press Conference With Tamaulipas Governor Cabeza de Vaca In Weslaco**
Reply-To: GovernorAbbottPress@public.govdelivery.com



For Immediate Distribution | April 15, 2022 | (512) 463-1826

MEDIA ADVISORY: Governor Abbott To Hold Press Conference With Tamaulipas Governor Cabeza de Vaca In Weslaco

AUSTIN – Governor Greg Abbott will hold a press conference with Tamaulipas Governor Francisco Javier García Cabeza de Vaca following a meeting TODAY, April 15, in Weslaco.

***Press conference livestream available at [Facebook.com/TexasGovernor](https://www.facebook.com/TexasGovernor).**

WHO: Governor Abbott
Governor Cabeza de Vaca

WHAT: Press conference

WHEN: TODAY, April 15 at 3:00 PM
Media setup begins at 2:30 PM

WHERE: DPS Weslaco Headquarters
2525 North International Blvd
Weslaco, TX 78596

*Mult-box provided

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From: [Cooper, Kevin](#)
To: [Tannya Oliva](#)
Cc: [Marrs, Jennifer R Maj USAF NG \(USA\)](#); [Blair.Walsh@tdem.texas.gov](#); [courtney.hjaltman@gov.texas.gov](#); [Rafael Anchia](#); [Mary Gonzalez](#); [Cross, Laura S LTC USARMY NG TXARNG \(USA\)](#)
Subject: Re: MALC Meeting Request 4/20
Date: Tuesday, April 19, 2022 2:54:55 PM

As of April 14, 2022, DPS has inspected 6,096 commercial vehicles and 1,423 of these commercial vehicles were placed out of service for serious safety violations to include defective brakes, defective tires and defective lighting. Additionally, 138 commercial vehicle drivers were placed out of service. A total of 19,701 violations have been detected.

Kevin Cooper
Chief
Government Relations
Texas Dept. of Public Safety

On Apr 19, 2022, at 1:04 PM, Tannya Oliva <Tannya.Oliva@house.texas.gov> wrote:

Hi Jennifer,

Thanks for your response. Do you mind clarifying which requirement DPS is taking over? And will TMD have any role in the participation/implementation of any of the 3 orders announced by Governor Abbott? If so, would you be available to join the requested meeting tomorrow?

Thank you so much!

Tannya Oliva
Legislative & Constituency Director
Office of State Representative Rafael Anchia
(o) 214.943.6081 | (c) 832.576.8649

From: Marrs, Jennifer R Maj USAF NG (USA) <jennifer.r.marrs.mil@army.mil>
Sent: Tuesday, April 19, 2022 11:49:43 AM
To: Tannya Oliva; Blair.Walsh@tdem.texas.gov; Kevin.Cooper@dps.texas.gov; Courtney.Hjaltman@gov.texas.gov
Cc: Rafael Anchia; Mary Gonzalez; Cross, Laura S LTC USARMY NG TXARNG (USA)
Subject: RE: MALC Meeting Request 4/20

Good morning,

It is my understanding that DPS will be taking over this requirement.

Please let me know if you have any further questions.

JENNIFER R. MARRS, Maj, TXANG
Air HQ A5/8

Government Affairs
Air Legislative Liaison

O: 512-782-3468
C: 512-415-5819
jennifer.r.marrs.mil@army.mil

From: Tannya Oliva <Tannya.Oliva@house.texas.gov>
Sent: Tuesday, April 19, 2022 10:55 AM
To: Marrs, Jennifer R Maj USAF NG (USA) <jennifer.r.marrs.mil@army.mil>; Blair.Walsh@tdem.texas.gov; Kevin.Cooper@dps.texas.gov; Courtney.Hjaltman@gov.texas.gov
Cc: Rafael Anchia <Rafael.Ancia@house.texas.gov>; Mary Gonzalez <Mary.Gonzalez@house.texas.gov>
Subject: [Non-DoD Source] Re: MALC Meeting Request 4/20

Good morning,

I hope you all had a good Easter. I am emailing to follow up on the meeting request sent on Thursday 4/14 forwarded below.

Please let us know if you have availability to meet with MALC legislators on Wednesday, April 20th from 10:00-11:00am CT to discuss the [orders announced](#) by Governor Abbott on April 6th.

Thank you for your attention to this timely matter.

Have a good week,

Tannya Oliva
Legislative & Constituency Director
Office of State Representative Rafael Anchia
(o) 214.943.6081 | (c) 832.576.8649

From: Tannya Oliva
Sent: Thursday, April 14, 2022 5:19:07 PM
To: jennifer.r.marrs.mil@army.mil; Blair.Walsh@tdem.texas.gov; Kevin.Cooper@dps.texas.gov; Courtney.Hjaltman@gov.texas.gov
Cc: Rafael Anchia; Mary Gonzalez
Subject: MALC Meeting Request 4/20

Good afternoon,

On behalf of Chairman Rafael Anchía and Vice-Chair Mary González, I am emailing to kindly request a virtual meeting on Wednesday, April 20th from 10:00-11:00am CT with your respective agencies and Members of the Mexican American Legislative Caucus to discuss details regarding the [orders announced](#) by Governor Abbott on April 6th.

Our Members are highly concerned about the impacts that these directives are having on border communities, commercial ports of entry, and the Texas economy. MALC Members, including Members of the Border Delegation would appreciate the opportunity to ask questions and get information to share with their constituents and ports of entry. We appreciate your attention to this urgent matter.

Please let us know if this time and date works for you and I will provide a Zoom link.

Thank you for your time.

Best regards,

Tannya Oliva

Legislative & Constituency Director

Office of State Representative Rafael Anchía

(o) 214.943.6081 | (c) 832.576.8649



GOVERNOR GREG ABBOTT

April 6, 2022

Colonel Steven C. McCraw
Director
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-4087

Dear Colonel McCraw:

As you have explained, the cartels that smuggle illicit contraband and people across our southern border do not care about the condition of the vehicles they send into Texas any more than they care who overdoses from the deadly fentanyl on board. In response to this threat, which is projected to grow in the coming months, I hereby direct the Department of Public Safety (DPS) to conduct enhanced safety inspections of vehicles as they cross international ports of entry into Texas. These inspections should begin immediately to help ensure that Texans are not endangered by unsafe vehicles and their unsafe drivers.

Thank you for serving the great State of Texas, and for leading the brave men and women of DPS who work tirelessly to protect us all.

Sincerely,

A handwritten signature in black ink that reads "Greg Abbott". The signature is fluid and cursive, with the first name "Greg" being larger and more prominent than the last name "Abbott".

Greg Abbott
Governor of Texas

GA:jsd