June 6, 2026

Kent S. Richardson
Deputy Division Chief
Criminal Prosecutions Division
Office of the Attorney General of Texas

Re: Supplemental Clarification – TCDA Production Format and Scope of Bailey Review – OAG File No. L260017200

Mr. Richardson,

I am submitting this as a separate supplement to my Request for Revision regarding the April 17, 2026 determination concerning the Titus County District Attorney's Office.

This supplement concerns two related issues: first, whether TCDA's later email productions were produced in the format in which they are maintained; and second, the continued lack of clarification from Mr. Bailey regarding what was included in his "evaluation" of my City of Mount Pleasant PIA complaints and supplemental materials.

My February 27, 2026 TPIA request to TCDA requested records electronically and, where available, in native electronic format, including attachments. Several of the later TCDA productions appear to have been made by forwarding emails to me rather than producing the original responsive messages as maintained in TCDA's email system.

Under the Public Information Act, the original email as stored in the agency's email system is itself a public-information medium, not merely text that can be recreated or forwarded. The Attorney General's Public Information Handbook recognizes that public information exists in records of many forms, including "e-mail," "other electronic communication," "printout," and "data … held in computer memory."[1]

That distinction matters. A forwarded email is generally a new email object created by the forwarding account — a newly created, substitute record rather than the original record as maintained. It may preserve visible text, visible From/To/Date/Subject fields, and attachments if included, but it does not necessarily preserve the original message as it existed in the email system. It may omit or alter original metadata, full internet headers, Message-ID, In-Reply-To, References, routing data, BCC-related information, server-level fields, and original attachment relationships.

Native email formats such as .msg, .eml, or .pst / mailbox exports preserve technical header fields that allow an email thread to be reconstructed and checked for gaps. Native format does not automatically prove that a complete thread was produced, because each email

[1]Office of the Attorney General, Public Information Handbook (2026) (describing public information as existing in many forms, including "e-mail," "other electronic communication," "printout," and "data … held in computer memory"); see also Tex. Gov't Code § 552.002.

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remains its own separate record. But native production allows a thread to be verified. Forwarded inline messages do not provide the same verification, because quoted text in a forwarded email is not an authoritative source record and may not show whether responsive messages are missing.

This issue is especially important because the production came from the Titus County District Attorney's Office. As an elected prosecuting authority performing a statutory review function under § 552.3215, that office should maintain a high standard of records integrity. Where production completeness and the scope of a formal public-information review are disputed, forwarded inline emails do not provide the same verification as native or near-native email records preserving headers, message identifiers, attachment relationships, timestamps, and thread structure.

For electronic records, the governing provision is Government Code § 552.228(b)–(c): if public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, and the governmental body "shall provide" it in the requested medium if it has the technological ability, need not purchase software or hardware, and production will not violate a copyright agreement; if it cannot do so for one of those reasons, it must provide the information in another medium acceptable to the requestor.[2] The Attorney General's cost/format rule is to the same effect: where the requestor seeks electronically stored information in a particular computer-compatible format and the body can provide it at no greater expense or time, the body "shall provide" the information in the requested format, and otherwise proceeds under § 552.228(c).[3]

The Act also does not permit a governmental body to satisfy a request for a specific record by unilaterally substituting a different record. The Attorney General has concluded that the Act requires release of "a copy of an actual requested record" with excisions, and does not permit the body to provide a newly generated document consolidating or retyping only the releasable information unless the parties agree.[4] The Attorney General has further held that the Act's policy is not served by allowing a governmental body to provide "another record in lieu of one that has specifically been requested," that information is not removed from the Act because it has been copied into another record "in the same language" or in a "compiled, edited, summarized, improved, or otherwise altered form," and that the body may not discharge its duty by releasing a substitute record unless the requestor specifically agrees to the

[2]Tex. Gov't Code § 552.228(b)–(c), as reproduced in the Public Information Handbook (2026): if public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, and the governmental body "shall provide" it in the requested medium if it has the technological ability, need not purchase software or hardware, and production will not violate a copyright agreement; if it cannot, it must provide the information in another medium "acceptable to the requestor."

[3]1 Tex. Admin. Code § 70.6 (Attorney General cost/format rule), as reproduced in the Public Information Handbook: where a requestor asks for electronically stored information on computer-compatible media of a particular kind and the governmental body can provide it in that format at no greater expense or time, the body "shall provide" the information in the requested format; if it lacks the technological capability to comply with the preferred format, it must proceed under § 552.228(c).

[4]Tex. Att'y Gen. Open Records Decision No. 606 (the Act requires release of "a copy of an actual requested record" with confidential or nondisclosable information excised, and does not permit a governmental body to provide a newly generated document consolidating and retyping only the releasable information unless the parties agree).

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substitution.[5] A forwarded email is analogous to such a substitute: it may contain some or all of the visible content of the original, but it is a newly generated email object rather than the original record in the form maintained. Texas's record-preservation requirement, which directs that public information be preserved "in its original form," reinforces that Texas law distinguishes original electronic records from later copies.[6]

These format and substitution concerns are also authenticity concerns. A forwarded email changes the evidentiary object: it carries new sender, recipient, date, and message-path data, and may omit or alter original headers, Bcc data, attachment relationships, routing data, DKIM/SPF/ARC authentication traces, and folder/location metadata maintained by the original system. State archival guidance treats metadata as part of a born-digital record and warns that stripping metadata is comparable to sending an email without a sender, creation date, or subject line, while Texas administrative rules require maintaining the metadata and characteristics necessary to support retrievability, completeness, authenticity, and usability.[7] Persuasive authority elsewhere is consistent: a court has held that the electronic version of a public record, including its embedded metadata, is itself subject to disclosure when requested, distinguishing metadata produced for a copy from the metadata of the original record,[8] and e-discovery practice likewise treats production generated from forwarded emails as failing to deliver the metadata of the original messages.[9]

To be clear, I am not contending that the forwarded messages provided no responsive information. My concern is narrower: if TCDA's "cure" position was based on forwarded inline emails rather than native or near-native email files, then the production may not fully satisfy the format, completeness, and integrity aspects of my request.

Accordingly, I do not agree that forwarded inline emails should be treated as conclusive cure of the format, completeness, and integrity aspects of my request. If the original responsive emails are maintained by TCDA in Outlook, Exchange, Microsoft 365, or another email system, I respectfully ask that your office consider whether TCDA should provide the

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[5]Tex. Att'y Gen. Open Records Decision No. 633 (the Act's policy is not served by allowing a governmental body to provide "another record in lieu of one that has specifically been requested"; information is not removed from the Act because it has been copied into another record "in the same language" or in a "compiled, edited, summarized, improved, or otherwise altered form"; the governmental body may not discharge its duty by releasing a substitute record unless the requestor specifically agrees to the substitution).

[6]Tex. Gov't Code § 552.004, as reproduced in the Public Information Handbook (a current or former governmental officer or employee who maintains public information on a privately owned device must forward or transfer it to the governmental body or preserve the public information "in its original form" for the required retention period) — cited to show that Texas law distinguishes original electronic records from later copies or substitutes.

[7]Texas State Library and Archives Commission, guidance on born-digital electronic records (metadata is part of an electronic record that is born digitally, and stripping metadata is comparable to sending an email without a sender, creation date, or subject line); see also 13 Tex. Admin. Code § 7.74 (local-government electronic-record requirements, including maintaining records in a manner that supports retrievability, completeness, and usability).

[8]O'Neill v. City of Shoreline, 170 Wn.2d 138, 240 P.3d 1149 (2010) (the electronic version of a public record, including embedded metadata, is itself subject to disclosure when requested; requestor had received metadata for other email copies but not for the original email she requested) (persuasive, non-Texas authority).

[9]Singh v. Hancock Natural Resources Group, Inc., No. 1:15-cv-01435 (E.D. Cal. Dec. 29, 2016) (Thurston, M.J.) (ordering production of emails with metadata from the original native email — and imposing sanctions — where the producing party had first forwarded the emails to counsel, so that the extracted "to," "from," "cc," "bcc," and date metadata reflected the forwarded messages rather than the originals); see Fed. R. Civ. P. 34(b)(2)(E) (ESI is produced in the form requested, or, if none is specified, in a form in which it is ordinarily maintained or in a reasonably usable form) — a general ESI principle, not the Texas PIA.

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responsive emails in native or near-native electronic format, such as .eml, .msg, .pst, or another metadata-preserving export, including attachments and available header information. If TCDA contends it cannot produce records in that format, I request that it identify whether the limitation is technological ability, nonexistence of the native record, lack of possession, or another specific basis.

This issue is also relevant to Mr. Bailey's later review of my City of Mount Pleasant PIA complaints. I previously asked Mr. Bailey to clarify what was included in his "evaluation" of my City complaint materials and supplemental submissions, including whether later ORD informal complaints and newer matters were part of his determination. I have not received a response. That matters because I may need to request formal OAG review of several newer matters that were not included in the original § 552.3215 complaint review process.

Accordingly, I respectfully request that your office consider whether TCDA should provide or verify the following:

1. Whether responsive emails were produced in the format in which they are maintained by TCDA.
2. Whether any emails were produced only as inline forwards created by Mr. Bailey's account.
3. Whether TCDA maintains responsive emails in Outlook, Exchange, Microsoft 365, or another email system.
4. Whether TCDA has the technological ability to produce responsive emails as .eml, .msg, .pst, or another metadata-preserving electronic format.
5. Whether all attachments, header information, and thread relationships were preserved in the production.
6. Whether TCDA has conducted a complete search for all responsive DA–OAG, DA–City, DA–MPPD, and DA–requestor communications.
7. Whether Mr. Bailey's May determination concerning the City of Mount Pleasant complaint was intended to include or exclude later supplemental matters and newer ORD complaint numbers not included in the original OAG § 552.3215 review.

For clarity, native or near-native production would mean responsive email records as maintained in the agency email system — such as .eml, .msg, PST, MBOX, or an e-discovery export — preserving complete Internet headers; sender, recipient, cc, and bcc fields; sent and received dates; Message-ID; thread/conversation identifiers; attachments and attachment relationships; and available system metadata. For the reasons above, I do not regard production by forwarding, printing to PDF, screenshotting, or copying-and-pasting the message body as equivalent to native production of the original records.

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I understand that some production-format or failure-to-produce issues may also be appropriate for ORD's complaint process.[10] I am providing this supplement here, however, because the April 17 determination's cure conclusion depended on the premise that TCDA had cumulatively released all responsive information. If the production consisted partly of forwarded email chains rather than native or near-native responsive records, and if the scope of Mr. Bailey's City review remains unclear, then the completeness and format of the TCDA production remain material to the pending Request for Revision.

A separate exhibit binder of the underlying correspondence between me and Mr. Bailey (May 29 – June 5, 2026) accompanies this supplement.

Respectfully,

Kyle Douglas Moring
[redacted] | [redacted]

[10] Office of the Attorney General, Public Information Handbook (2026) (a requestor may file a written complaint with the Open Records Division if a governmental body fails to provide information, fails to respond, or fails to request an attorney general ruling within 10 business days); the OAG also operates an Open Government Hotline, though hotline staff do not provide legal advice.

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