



CITY OF SAN ANTONIO

OFFICE OF THE CITY ATTORNEY

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March 6, 2026

Justin Gordon
Office of the Attorney General
Open Government Section
P.O. Box 12548
Austin, Texas 78711-2548

Via Certified Mail

Re: Request for Ruling
Requestor: Andrea Drusch
Organization: City of San Antonio
Date request received: 2/24/26
COSA File No.: W767278-022426

Dear Mr. Gordon:

On the dates reflected above, the City of San Antonio received a public information request for an investigation report or findings related to an investigation relating to a council member requesting the following:

The findings of the outside investigation conducted following Councilwoman Sukh Kaur's Feb. 9, 2026, Code of Conduct complaint into an interaction on Feb. 5, 2026.

The request is attached to this letter. **[Attachment 1 - Copy of Request]**

The tenth day is March 10th. The fifteenth day is March 17th. The City now submits a copy of the record at issue and its written comments outlining the legal argument supporting the exceptions to public disclosure that are applicable to the record. **[Attachment 2 - Copy of Record for Review by the Office of the Attorney General]**.

Background Information

A complaint was made to the City Attorney. The First Assistant City Attorney, Elizabeth Provencio, hired outside legal counsel, Natalie Rougeux, to investigate the concern. **[Attachment 3 - Engagement Letter]**. Ms. Rougeux is a licensed Texas attorney.

The City seeks exception to the disclosure of the responsive document related to the investigation.

The Enclosed Documents are Attorney-Client Communications Exempt under the Legal Matters Exception Section 552.107

The Attorney General determined in Open Records Decision No. 574 (1990) that Section 552.107(1) governs whether the attorney-client privilege exempts information from disclosure under the Public Information Act. This section excepts information from public disclosure if:

It is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to a client under the Texas Rules of Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct.

Texas Rule of Evidence 503(b)(1)¹ defines the attorney-client privilege, stating that

A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client:

- (A) between the client or a representative of the client and the client's lawyer or a representative of the lawyer;
- (B) between the lawyer and the lawyer's representative;
- (C) by the client or a representative of the client, or the client's lawyer or a representative of the lawyer, to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein;
- (D) between representatives of the client or between the client and a representative of a client; or
- (E) among lawyers and their representatives representing the same client.

Rule 503(c) permits the client to claim the privilege. In this matter, the City through the City Attorney's Office, as the client, asserts its right as a client to exempt the investigation document as confidential attorney-client communications. The relationship between the outside counsel and the City Attorney's Office is protected by this privilege and no person within the City has waived the privilege regarding these communications.

The rule requires that the government demonstrate that the communication was made "for the purpose of facilitating the rendition of professional legal services." To be exempt from

¹ Open Records Decision No. 574 (1990) cites Texas Rule of Civil Evidence 503(b) as the rule governing attorney-client privilege. The Texas Rules of Civil Evidence and Texas Rules of Criminal Evidence were merged effective March 1, 1998, into the "Texas Rules of Evidence. Texas Rule of Evidence 503 is now the relevant provision for attorney-client privilege.

disclosure, the communication must also be “confidential.” Under Rule 503(a)(5), a communication is “confidential”

if it is not intended to be disclosed to third persons other than those to whom the disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication.

Whether a communication is “confidential” depends upon the intent of the parties involved at the time of the communication. See Osborne v. Johnson, 954 S.W.2d 180, 184 (Tex. App. – Waco 1997, no writ). The investigation was initiated for the sole purpose of providing the City Attorney’s Office with legal advice. The responsive investigation document was not shared outside the City Attorney’s Office. Also, the Public Information Act Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. See Huie v. DeShazo, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein); Harlandale Indep. Sch. Dist. v. Cornyn, 25 S.W.3d 328, (Tex. App.–Austin 2000, pet. denied) (privilege extends to entire report and not just the portions designated as legal analysis and recommendations where outside counsel functioned as attorney throughout employment). Clearly, the City Attorney’s Office did not waive such privilege pertaining to the document for which an exception to disclosure is sought.

Additionally, Rule of Evidence 511 provides that the attorney-client privilege can be waived if the holder of the privilege voluntarily discloses or consents to disclose the communication. The City and its representatives have not taken any action that would constitute a voluntary disclosure or consent to disclose the records to individuals outside the privilege. As noted, the City asserts its attorney-client privilege and no City representative has waived this privilege. Accordingly, the enclosed document is exempt under Evidence Rule 503(b) and the Public Information Act Section 552.107.

Conclusion

For the reasons set forth in this letter, the City seeks a ruling from the Office of the Attorney General to protect the responsive document set forth in Attachment 2 from disclosure.

Sincerely,

Krista Cover

Krista Cover
Assistant City Attorney
City of San Antonio

cc: Andrea Drusch