

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, *et al.*,

Plaintiffs

-vs-

GREGORY W. ABBOTT, *et al.*,

Defendants

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SA-21-CV-00844-XR

ORDER

On this date, the Court considered Plaintiff League of United Latin American Citizens’ (“LULAC”) motion to compel (ECF No. 391). After carefully considering the parties’ briefing, holding a hearing on the motion, and conducting an *in camera* review of the requested documents, the Court issues the following order.

BACKGROUND

This action arises out of an omnibus voting bill, Senate Bill 1 (“S.B. 1”), the State of Texas enacted on August 31, 2021. Plaintiffs claim, *inter alia*, that the Texas Legislature enacted S.B. 1 with the intent to discriminate against certain racial minorities, including Black and Latinx voters. ECF No. 207 at 52. On December 15, 2021, Plaintiffs served third-party subpoenas to the legislative sponsors of S.B. 1, Texas Representatives Briscoe Cain and Andrew Murr and Texas Senators Paul Bettencourt and Bryan Hughes (collectively, “the State Legislators”). ECF No. 392 at 5, 23, 41, 59. The subpoenas sought documents and communications from the State Legislators concerning claims of criminal conduct in Texas elections, the anticipated effects of S.B. 1, and communications with third-party organizations concerning S.B. 1. *See, e.g., id.* at 8–17.

Subsequently, counsel for the State Legislators sent Plaintiffs a letter asserting various objections to the subpoenas, including assertions of legislative, investigative, deliberative-process, and attorney-client privileges. *Id.* at 77–79. After numerous meet-and-confer sessions, the Parties were unable to resolve their disagreements concerning the State Legislators’ assertions of privilege. Plaintiff LULAC filed the instant motion to compel, seeking discovery of various documents over which the State Legislators have asserted legislative, attorney-client, work-product, and investigative privileges.

DISCUSSION

I. Legal Standard

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, a party to a litigation may serve a nonparty a subpoena to “produce designated documents, electronically stored information, or tangible things in that person’s possession, custody, or control[.]” FED. R. CIV. P. 45(a)(1)(A)(iii). The nonparty may object to the subpoena within 14 days after the subpoena is served, and failure to serve written objections to a subpoena within 14 days “typically constitutes a waiver of such objections, as does failing to file a timely motion to quash.” *Total Rx Care, LLC v. Great N. Ins. Co.*, 381 F.R.D. 587, 592–93 (N.D. Tex. 2017).

The subpoenaed party may object to the subpoena on the grounds that the sought discovery is privileged. FED. R. CIV. P. 45(e)(2). “Rule 45(e)(2) governs a non-party’s withholding of information on the grounds of privilege or work-product protections but is substantively identical to Rule 26(b)(5)’s requirements as to a responding party.” *Am. Fed’n of Musicians of the U.S. & Can. v. Skodam Films, LLC*, 313 F.R.D. 39, 46 (N.D. Tex. 2015). As such, when a nonparty withholds purportedly privileged information, the nonparty must: “(i) expressly make the claim; and (ii) describe the nature of the documents, communications, or

tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.” FED. R. CIV. P. 26(b)(5). Conclusory assertions of privilege are “insufficient to carry out the proponent’s burden of establishing” the relevant privilege. *EEOC v. BDO USA, L.L.P.*, 876 F.3d 690, 696 (5th Cir. 2017). When the nonparty relies on a privilege log to assert the relevant privilege, the log must “must provide sufficient information to permit courts and other parties to ‘test[] the merits of’ the privilege claim.” *Id.* at 697 (quoting *United States v. El Paso Co.*, 682 F.2d 530, 541 (5th Cir. 1982)) (alteration in original).

II. Analysis

Plaintiffs seek to compel (1) 139 legislative documents over which Plaintiffs assert the State Legislators have failed to justify their assertion of legislative privilege; (2) 89 documents over which Plaintiffs contend the State Legislators have waived the legislative privilege; (3) 41 documents over which Plaintiffs argue the State Legislators have improperly asserted and/or waived attorney-client or work-product protection; and (4) 11 documents over which Plaintiffs claim the State Legislators have improperly asserted an investigative privilege.

To begin, the Court notes that the privilege log is defective. The log, in many instances, is devoid of information concerning where certain documents originated, whom the documents were shared with, and in many cases, only contains conclusory statements to support the assertion of the relevant privilege. Nonetheless, the Court will discuss each of these disputed assertions of various forms of privilege in turn.

a. Legislative Privilege

Legislative privilege is an evidentiary privilege, “governed by federal common law, as applied through Rule 501 of the Federal Rules of Evidence.” *Jefferson Cmty. Health Care Ctrs.*,

Inc. v. Jefferson Par. Gov't, 849 F.3d 615, 624 (5th Cir. 2017) (quoting *Perez v. Perry*, No. SA-11-CV-360-OLG-JES, 2014 WL 106927, at *1 (W.D. Tex. Jan. 8, 2014) (three-judge panel)). “Legislative privilege protects legislators from possible prosecution by an unfriendly executive and conviction by a hostile judiciary, and is one means for ensuring the independence of the legislature, in other words, it serves to preserve the constitutional structure of separate, coequal, and independent branches of government[.]” *Gilby v. Hughs*, 471 F. Supp. 3d 763, 766–67 (W.D. Tex. 2020) (internal citations omitted). The privilege applies to “any documents or information that contains or involves opinions, motives, recommendations or advice about legislative decisions between legislators or between legislators and their staff.” *Jackson Mun. Airport Auth. v. Bryant*, No. 3:16-CV-246-CWR-FKB, 2017 WL 6520967, at *7 (S.D. Miss. Dec. 19, 2017) (quoting *Hall v. Louisiana*, No. 12-657-BAJ-RLB, 2014 WL 1652791, at *10 (M.D. La. Apr. 23, 2014)). The privilege does not apply, though, to “documents containing factually based information used in the decision-making process or disseminated to legislators or committees, such as committee reports and minutes of meetings,” or “the materials and information available [to lawmakers] at the time a decision was made.” *Comm. for a Fair & Balanced Map v. Ill. State Bd. of Elections*, No. 11 C 5065, 2011 WL 4837508, at *9 (N.D. Ill. Oct. 11, 2011) (internal quotations and citations omitted) (alteration in original).

The privilege is personal, and it may be waived or asserted by the individual legislator. *Perez*, 2014 WL 106927, at *1. “[C]ounsel for the State of Texas may not invoke the privilege on behalf of the legislator, legislative aide, or staff member.” *Id.* at *2. Nor can a legislator assert or waive the privilege on behalf of another legislator. *Gilby*, 471 F. Supp. 2d at 767. “To the extent . . . that any legislator, legislative aide, or staff member had conversations or communications with any outsider (*e.g.* party representatives, non-legislators, or non-legislative

staff), any privilege is waived as to the contents of those specific communications.” *Perez*, 2014 WL 106927, at *2.

Further, the privilege accorded to state legislators is qualified. *United States v. Gillock*, 445 U.S. 360, 373 (1980); *Jefferson Cmty. Health Care Ctrs., Inc.*, 849 F.3d at 624. The privilege “must be strictly construed and accepted only to the very limited extent that permitting a refusal to testify or excluding relevant evidence has a public good transcending the normally predominant principle of utilizing all rational means for ascertaining the truth.” *Jefferson Cmty. Health Care Ctrs. Inc.*, 849 F.3d at 624 (quoting *Perez*, 2014 WL 106927, at *1). Accordingly, in determining whether and to what extent the legislative privilege must be honored, the Court “must balance the extent to which production of the information sought would chill the [Texas] Legislature’s deliberations . . . against any other factors favoring disclosure.” *Rodriguez v. Pataki*, 280 F. Supp. 2d 89, 100 (S.D.N.Y. 2003). The *Rodriguez* court articulated five factors to consider in making such a determination: “(i) the relevance of the evidence sought to be protected; (ii) the availability of other evidence; (iii) the ‘seriousness’ of the litigation and the issues involved; (iv) the role of the government in the litigation; and (v) the possibility of future timidity by government employees who will be forced to recognize that their secrets are violable.” *Id.* at 101; *see also Veasey v. Perry*, No. 2:13-CV-193, 2014 WL 1340077, at *2 (S.D. Tex. Apr. 3, 2014) (applying the *Rodriguez* five-factor analysis); *Perez*, 2014 WL 106927, at *2.

The Court will first address whether the legislative privilege has been waived as to the documents identified in Table B of the privilege log. Next, the Court will address the remaining legislative privilege claims under the *Rodriguez* five-factor test.

i. Waiver

LULAC contends that the documents identified in Table B indicate a waiver of the legislative privilege on its face, as these documents were obtained from or disclosed to non-legislative parties. The Court agrees.¹ The vast majority of documents identified in Table B are communications between the State Legislators and non-legislative third parties. There are two categories of such communications: (1) communications between the State Legislators and third-party organizations, constituents, lobbyists, etc.; and (2) communications between the State Legislators and executive branch offices, such as the Office of the Attorney General (“OAG”), Secretary of State, and Lieutenant Governor.

First, the legislative privilege was waived when the State Legislators communicated with parties outside the legislature, such as party leaders and lobbyists. As discussed, “[t]o the extent . . . that any legislator, legislative aide, or staff member had conversations or communications with any outsider (e.g. party representatives, non-legislators, or non-legislative staff), any privilege is waived as to the contents of those specific communications.” *Perez*, 2014 WL 106927, at *2; *see also Gilby*, 471 F. Supp. 3d at 767; *Favors v. Cuomo*, 285 F.R.D. 187, 212 (E.D.N.Y. 2012); *Jackson Mun. Airport Auth.*, 2017 WL 6520967, at *8; *Lee v. Va. State Bd. of Elections*, No. 3:15-cv-357 (HEH-RCY), 2015 WL 9461505, at *1 (E.D. Va. Dec. 23, 2015). Therefore, the Court finds that to the extent otherwise-privileged documents or information has been shared with third parties, the legislative privilege has been waived.

Still, the State Legislators argue that the privilege has not been waived because these communications were made as part of the legislative “process of gathering facts for and

¹ As identified in Table B, Documents 78 and 84 are communications between the State Legislators and the Texas Legislative Council. The Texas Legislative Council is a nonpartisan, legislative agency. As such, these communications do not constitute a waiver. These documents are subject Court’s analysis in balancing the *Rodriguez* factors, *infra*.

considering election integrity legislation.” ECF No. 397 at 12. To support their assertions, the State Legislators rely on numerous authorities construing the federal Constitution’s Speech and Debate Clause and federal legislative immunity. *See id.* at 12–13 (citing *Watkins v. United States*, 354 U.S. 178, 187 (1957) (discussing Congress’s power to conduct investigations); *Gov’t of Virgin Islands v. Lee*, 775 F.2d 514, 519–20 (3d Cir. 1985) (discussing the Speech and Debate Clause and 48 U.S.C. §1572(d), the Virgin Islands’ legislative immunity statute); *Miller v. Transamerican Press*, 709 F.2d 524, 530 (9th Cir. 1983) (discussing legislative privilege as applied to members of Congress); *McSurely v. McClellan*, 553 F.2d 1277, 1284 (D.C. Cir. 1976) (en banc) (discussing federal legislators’ immunity under the Speech and Debate Clause)). However, the Supreme Court has made it clear that the Speech and Debate Clause does not apply to state legislators. *Gillock*, 445 U.S. at 374. As such, these authorities are unpersuasive in this context.

The State Legislators further cite three district court cases concluding that all third-party communications with state legislators are privileged: *Puente Arizona v. Arpaio*, 314 F.R.D. 64 (D. Ariz. 2016), *Thompson v. Merrill*, No. 2:16-cv-783-ECM, 2020 WL 2545317 (M.D. Ala. May 19, 2020), and *Jeff D. v. Kempthorne*, No. CV-80-4091-E-BLW, 2006 WL 2540090 (D. Idaho Sept. 1, 2006). All are unpersuasive. While *Puente Arizona* concluded that state legislators’ communications with third parties were protected, in reaching that conclusion, the court relied on *Miller* and *Jewish War Veterans of the U.S. of Am., Inc. v. Gates*, 506 F. Supp. 2d 30 (D.D.C. 2007). Both *Miller* and *Jewish War Veterans* concerned the application of the legislative privilege to members of Congress through the Speech and Debate Clause, not state legislators. *Miller*, 709 F.2d at 530; *Jewish War Veterans*, 506 F. Supp. 2d at 52. *Thompson* is no more availing. There, the court relied on, and was controlled by, the Eleventh Circuit’s decision

in *In re Hubbard*, 803 F.3d 1298 (11th Cir. 2015), concluding that third-party communications were protected by the legislative privilege. However, *Hubbard* “is inconsistent with the Fifth Circuit view (and apparent majority view) of the legislative privilege as a limited, qualified privilege.”² *Jackson Mun. Airport Auth.*, 2017 WL 6520967, at *9. Finally, the court in *Jeff D.* cites no authority for the proposition that a state legislators’ communications with third parties are privileged. *See Jeff D.*, 2006 WL 2540090, at *3. Case law within the Fifth Circuit is clear that state legislators waive the legislative privilege when they communicate with outsiders. *E.g.*, *Gilby*, 471 F. Supp. 3d at 767; *Perez*, 2014 WL 106927, at *2. This Court reaches the same conclusion here.

Similarly, the legislative privilege is waived when a state legislator communicates with executive branch officials. Again, with respect to communications between state legislators and “any outsider (e.g. party representatives, non-legislators, or non-legislative staff), any privilege is waived as to the contents of those specific communications.” *Perez*, 2014 WL 106927, at *2 (emphasis added). At issue here are communications with the Office of the Attorney General, Secretary of State, and the Lieutenant Governor. ECF No. 392 at 263–88. Each of these entities are members of the executive branch, and thus constitute “outsiders.” TEX. CONST. art. IV, § 1 (amended 1995) (“The Executive Department of the State shall consist of a Governor, . . . a Lieutenant Governor, Secretary of State, . . . and Attorney General.”); *see also Perez*, 2014 WL 106927, at *2. Further, expanding the privilege to protect state legislators’ communications with the executive branch is inconsistent with the purposes of the privilege: to protect the legislative branch from “intimidation” by the executive and judicial branches. *Gilby*, 471 F. Supp. 3d at

² Indeed, as the *Jackson* court noted, “*Hubbard* does not recognize a distinction between the concepts of legislative privilege, legislative immunity, and the Speech and Debate Clause as applied to state legislators.” *Jackson Mun. Airport Auth.*, 2017 WL 6520967, at *9 n.10.

767. As such, the Court concludes that the State Legislators' communications with the executive branch are not protected by the legislative privilege.³

Nonetheless, the State Legislators have asserted that the privilege extends to officials outside the legislative branch when such officials perform legislative functions. ECF No. 397 at 20. The cases the State Legislators cite in support of this proposition concern legislative immunity from suit, not legislative privilege. *See id.* Legislative immunity and legislative privilege are related concepts, but they are distinct. *Jackson Mun. Airport Auth.*, 2017 WL 6520967, at *4; *see also Harding v. County of Dallas*, No. 3:15-CV-0131-D, 2016 WL 7426127, at *2 (N.D. Tex. Dec. 23, 2016). The *Rodriguez* court offered a helpful explanation of the distinction:

Closely related to the concept of legislative immunity is the concept of legislative privilege. Although the two doctrines are often discussed interchangeably, there is one key difference. Legislative immunity entitles a state legislator, in an appropriate case, to the dismissal of all of the claims against him or her in the complaint, much as judicial immunity entitles judges to the dismissal of suits against them arising out of the performance of their judicial functions. Legislative privilege, on the other hand, is not absolute. Thus, courts have indicated that, notwithstanding their immunity from suit, legislators may, at times, be called upon to produce documents or testify at depositions.

Rodriguez, 280 F. Supp. 2d at 95 (internal citations omitted). As legislative immunity and legislative privilege are distinct concepts, the Court declines to extend the privilege to executive branch officials assisting in the drafting of legislation.

The State Legislators assert that these cases are relevant because “[legislative] immunity from suit derives from the testimonial privilege, not the other way around.” *Id.* (quoting *Brown & Williamson Tobacco Corp. v. Williams*, 62 F.3d 408, 418 (D.C. Cir. 1995)). Yet again, the

³ The Court will analyze whether such communications with the OAG are protected by the attorney-client privilege *infra*.

authority that the State Legislators present is wholly unpersuasive. *Brown* concerns the application of the Speech and Debate Clause, which, as stated, does not apply in this context. Further, if the Court were to accept that the evidentiary privilege afforded to state legislators derived from their testimonial privilege, as the State Legislators urge, then state legislators would have qualified immunity from suit for their legislative acts. That is not the law.⁴ *Perez*, 2014 WL 106927, at *2 (“While the common-law legislative immunity for state legislators is absolute, the legislative privilege for state lawmakers is, at best, one which is qualified.” (internal quotations and citations omitted)).

Even assuming such cases are relevant, the State Legislators fail to meet their burden to establish that any individual from the executive branch was in fact performing a legislative function with respect to the communications at issue. Communications from legislators to the executive branch seeking guidance on formulating legislation “are not meaningfully different” from communications between legislators and constituents, lobbyists, or think-tanks. *See Gilby*, 471 F. Supp. 3d at 768. The privilege log does not explain how these communications were in relation to a legislative function. Instead, the log merely asserts that the communications were “considered when drafting legislation” or consisted of “advice” concerning pending legislation. These assertions do not show how the communications are “meaningfully different” from the legislators’ communications with other outsiders, such as lobbyists.

The State Legislators’ communications with the Lieutenant Governor’s office require closer examination. While the Lieutenant Governor is a member of the executive branch, he is

⁴ The State Legislators also urge this Court to adopt the court’s holding in *Texas v. Holder*, No. 12-128 (DST, RMC, RLW), 2012 WL 13070060 (D.D.C. June 5, 2012), concluding that communications between state legislators and executive agencies are privileged. *Id.* at *4. However, like the other cases the State Legislators cite, the court there relied on cases construing the Speech and Debate Clause. *See id.* at *4 (citing *Jewish War Veterans*, 506 F. Supp. 2d at 57; *McSurely*, 553 F.2d at 1287). The Court therefore declines to follow the *Texas* court’s holding.

also the President of the Texas Senate. TEX. CONST. art. IV, § 16. His official duties include: (1) appointing the chairs and members of all committees and standing subcommittees; (2) announcing each reading of a bill; (3) referring each bill to a committee or standing subcommittee; (4) signing bills and joint resolutions passed by the whole legislature; (5) voting on legislation in the event of a senate tie; and (6) presiding over the senate and running the operations of the senate chamber, including recognizing members for debate and scheduling most bills for debate. Tex. S. Rules 4.01, 5.08, 7.03, 7.06, 7.23, 11.01, 12.01, 87th Leg., 2d Spec. Sess. (2021). Further, when the senate resolves into a Committee of the Whole Senate, the Lieutenant Governor may participate in debate and vote on all questions, including bills pending before the Committee of the Whole. *Id.* at 13.01–.05.

While the Lieutenant Governor has extensive, enumerated legislative functions, the State Legislators have not shown that the communications at issue involved any of these legislative functions. Rather, the communications involve the Lieutenant Governor's input on drafting legislation. The Lieutenant Governor may exercise such a right as to legislation pending before the Committee of the Whole Senate, but S.B. 1 and its predecessors were considered by the State Affairs Committee. *See, e.g.*, S.J. of Tex. 87th Leg., 2d C.S. 4 (2021). Thus, the Lieutenant Governor's communications are not meaningfully different than the State Legislators' communications with lobbyists or other third parties. As such, the Court concludes the legislative privilege is waived.

ii. Balancing of Interests

The State Legislators have additionally asserted the legislative privilege as to several internal documents such as notes and drafts of election legislation as well as communications between the State Legislators and their staff. These documents and communications are subject

to the legislative privilege. Thus, the Court will weigh the *Rodriguez* factors to determine if they should nevertheless be disclosed: “(i) the relevance of the evidence sought to be protected; (ii) the availability of other evidence; (iii) the ‘seriousness’ of the litigation and the issues involved; (iv) the role of the government in the litigation; and (v) the possibility of future timidity by government employees who will be forced to recognize that their secrets are violable.” *Id.* at 101; *see also Veasey v. Perry*, No. 2:13-CV-193, 2014 WL 1340077, at *2 (S.D. Tex. Apr. 3, 2014) (applying the *Rodriguez* five-factor analysis); *Perez*, 2014 WL 106927, at *2.

The first factor weighs in favor of disclosure. The LULAC Plaintiffs allege that “a racially discriminatory purpose was a motivating factor in the passage of SB 1” in violation of Section 2 of the Voting Rights Act. ECF No. 207 at 52. The evidence that the LULAC Plaintiffs seek to compel is highly relevant in proving their Section 2 claim, as the documents reflect the State Legislators’ contemporaneous thoughts and motivations in drafting and enacting S.B. 1.

With respect to the second factor, the availability of other evidence, litigants may prove a Section 2 claim through circumstantial or direct evidence of a discriminatory purpose.⁵ *Veasey v. Abbott*, 830 F.3d 216, 230–31 (5th Cir. 2016). Thus, the State Legislators’ private communications and notes are not the only evidence that would allow the LULAC Plaintiffs to prove their Section 2 claim. However, the Court concludes this factor weighs in favor of disclosure “given the practical reality that officials ‘seldom, if ever, announce on the record that they are pursuing a particular course of action because of their desire to discriminate against a racial minority.’” *Veasey*, 2014 WL 1340077, at *3 (quoting *Smith v. Town of Clarkton*, 682 F.2d 1055, 1064 (4th Cir. 1982)).

⁵ Litigants may also prevail on a Section 2 claim by demonstrating that legislation has a discriminatory effect. *Veasey*, 830 F.3d at 243.

The third and fourth factors also weigh in favor of disclosure. The LULAC Plaintiffs raise serious questions whether S.B. 1 complies with the Voting Rights Act and the First and Fourteenth Amendments. *See* ECF No. 207 at 52–61. Additionally, the state government played a direct role in the alleged unlawful conduct. *See Comm. for a Fair & Balanced Map*, 2011 WL 4837508, at *8. As the LULAC Plaintiffs have alleged that the Texas legislature intentionally discriminated against minority voters, “the decisionmaking process . . . is the case.” *Id.* (quoting *United States v. Bd. of Educ. of the City of Chi.*, 610 F. Supp. 695, 700 (N.D. Ill. 1985) (emphasis in original)).

The fifth and final factor, the possibility of future timidity by government officials, weighs against disclosure. “[C]ourts have long recognized that the disclosure of confidential documents concerning intimate legislative activities should be avoided.” *Veasey*, 2014 WL 1340077, at *3; *see also Comm. for a Fair and Balanced Map*, 2011 WL 4837508, at *9. Even so, “‘where important federal interests are at stake,’ the principle of comity, which undergirds the protection of legislative independence, yields.” *Bensick v. Lamone*, 263 F. Supp. 3d 551, 555 (D. Md. 2017) (quoting *Gillock*, 445 U.S. at 373). Courts have repeatedly recognized that such important federal interests include protecting the fundamental right to vote. *See, e.g., id.; Veasey*, 2014 WL 1340077, at *2. As such, the Court finds that the need for accurate fact finding outweighs any chill to the legislature’s deliberations. *See Baldus v. Brennan*, No. 11-CV-562, 11-CV-1011, 2011 WL 6122542, at *2 (E.D. Wis. Dec. 8, 2011) (concluding that the potential “chilling effect” on the state legislature “is outweighed by the highly relevant and potentially unique nature of the evidence.”).

b. Attorney-Client Privilege

The State Legislators have further asserted the attorney-client privilege protects several documents from disclosure. “[T]he attorney-client privilege protects communications made in confidence by a client to his lawyer for the purpose of obtaining legal advice. The privilege also protects communications from the lawyer to his client, at least if they would tend to disclose the client’s confidential communications.” *Hodges, Grant & Kaufmann v. U.S. Gov’t, Dep’t of the Treas.*, 768 F.2d 719, 720–21 (5th Cir. 1985) (internal citations omitted).

“[D]isclosure of attorney-client communications to a third party lacking a common legal interest will result in a waiver of the attorney-client privilege.” *S.E.C. v Brady*, 238 F.R.D. 429, 439 (N.D. Tex. 2006) (citing *In re Auclair*, 961 F.2d 65, 69 (5th Cir. 1992)). Parties have a “common legal interest” if they are “co-defendants in actual litigation” or “potential” co-defendants. *United States v. Newell*, 315 F.3d 510, 525 (5th Cir. 2002). “Communications between potential codefendants and their counsel are only protected if there is ‘a palpable threat of litigation at the time of the communication, rather than a mere awareness that one’s questionable conduct might some day result in litigation.’” *Id.* (quoting *In re Santa Fe Int’l Corp.*, 272 F.3d 705, 711 (5th Cir. 2001)).

The LULAC Plaintiffs argue that the privilege log shows many instances of waiver. In response, the State Legislators argue that no waiver occurred as all parties to the communications shared a common legal interest in drafting legislation. ECF No. 397 at 21. However, the State Legislators have not presented, and the Court has not found, any Fifth Circuit case law concluding that parties may have a common legal interest in anything other than “actual litigation.” *See In re Santa Fe Int’l Corp.*, 272 F.3d at 710–13 (discussing cases within the Fifth Circuit addressing the common-interest doctrine). Nor can the State Legislators plausibly claim

that a threat of litigation existed at the time of the communications. These communications concerned advice in drafting legislation that was still being debated and amended, and the legislation was not guaranteed to pass. In some cases, the legislation did in fact fail. *See* H.J. of Tex., 87th Leg., R.S. 5466 (2021) (recording SB 7’s failure because the House of Representatives lacked a quorum). Consequently, the State Legislators cannot assert that the common-interest doctrine protects the communications from disclosure.

Even beyond the numerous instances of waiver, many of the communications at issue do not concern legal advice. Several of the communications concern “solicited information about incidents of voting misconduct.” *See* ECF No. 392 at 284–85. Facts within the client’s knowledge are not protected by the attorney-client privilege, “even if the client learned those facts through communications with counsel.” *Thurmond v. Compaq Comput. Corp.*, 198 F.R.D. 475, 483 (E.D. Tex. 2000). As these communications relayed facts, not legal advice, they are not privileged.

c. Work-Product Protection

The State Legislators have also asserted work-product protection as to several documents. However, “[d]ocuments prepared for one who is not a party to the present suit are wholly unprotected by Rule 26(b)(3) even though the person may be a party to a closely related lawsuit in which he will be disadvantaged if he must disclose in the present suit.” 8 CHARLES ALAN WRIGHT & ARTHUR R. MILLER, *FEDERAL PRACTICE & PROCEDURE* § 2024 (3d ed. 1998). The State Legislators are not parties to the underlying suit, nor can they be. Thus, any assertions of work-product protection are improper.

d. Investigative Privilege

Finally, the State Legislators have asserted an investigative privilege over eleven documents. The Fifth Circuit recognizes an investigative privilege, often referred to as a law enforcement privilege. *In Re U.S. Dep't of Homeland Sec.*, 459 F.3d 565, 568–69 (5th Cir. 2006). The privilege protects government documents relating to an ongoing criminal investigation from release. *Id.* at 569 n.2. However, the privilege “is bounded by relevance and time constraints,” and

[s]everal types of information probably would not be protected, including documents pertaining to: (1) people who have been investigated in the past but are no longer under investigation, (2) people who merely are suspected of a violation without being part of an ongoing criminal investigation, and (3) people who may have violated only civil provisions. Furthermore, the privilege lapses after a reasonable period of time.

Id. at 571.

It is unclear if the State Legislators may properly assert an investigatory privilege. *See id.* at 569 n.2 (observing that the law enforcement privilege is a “subcategory” of the executive privilege). However, even assuming they may assert the privilege, the State Legislators have not met their burden to show that an investigatory privilege is applicable. Jonathan White, Chief of the Elections Integrity Division at the Office of the Attorney General, avers that the documents concern “potential election code violations.” ECF No. 397-11 at 3. Nowhere in the privilege log or elsewhere do the State Legislators assert that these documents concern an ongoing criminal investigation or that any investigation even occurred. As such, the Court concludes that the State Legislators have failed to show the documents are subject to an investigatory privilege.

CONCLUSION

For the foregoing reasons, Plaintiff LULAC's motion to compel (ECF No. 391) is **GRANTED**. The State Legislators are **ORDERED** to produce all documents, with the exception of DOC_0000477, as specified in Appendix A below, by **June 3, 2022**.

It is so **ORDERED**.

SIGNED this 25th day of May, 2022.



XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE

RETRIEVED FROM DEMOCRACYDOCKET.COM

APPENDIX A

Doc. ID Number	Document Description	To/Cc/From	Privilege Asserted	Ruling
DOC_0000149	Draft of HB3 (predecessor of SB1) with Representative Andrew Murr's redlines and annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0000629	Report from Crime Prevention Research Center on mail-in ballots and voter fraud. Two handwritten notes are on the first page of the report.	Unknown	Legislative	PRODUCE. The report itself is not subject to the legislative privilege because it originated from outside the legislature. The handwritten notes are privileged, but for the reasons stated in the Court's order the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0000798	Bill Analysis of SB 1509 (predecessor of SB1) from Representative Cain's files. Document has some handwritten marks and annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0000899	Typed summary of Secure Democracy's opinion on HB 6 and SB 7 (predecessors of SB1).	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor

				balancing test.
PDOC_0000973	Draft of HB 6/SB 7 with redlining.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0001053	Drafts of proposed committee amendments to SB 7 with handwritten annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0001217	Draft of HB 6 with Representative Cain's handwritten notes.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0001218	Draft of unspecified election bill with Representative Cain's handwritten notes and redlining.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0001251	Draft of HB 6 with handwritten notes and redlining.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor

				balancing test.
PDOC_0001463	Draft script written in for floor speech concerning passage of SB 7. First page of the document is missing.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0001464	Notes and bulleted talking points for Representative Cain's use regarding unspecified elections bill. Contains handwritten annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0001487	Redlined draft of an unspecified elections bill.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000207	Draft script written in preparation of the legislator's layout of SB 7 given on the house floor.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000209	Notes and bulleted talking points for Representative Cain's use regarding HB 6.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor

				balancing test.
DOC_0000218	Redlined draft of HB 6.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000219	Redlined draft of HB 6.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000220	Redlined draft of HB 6.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000224	Redlined draft of committee substitute of HB 6.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000225	Redlined draft of unspecified elections bill.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor

				balancing test.
DOC_0000226	Redlined draft of HB 2478 prepared by the Texas Legislative Council.	Unknown	Legislative ⁶	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000227	Redlined draft of unspecified elections bill.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000235	Typed notes regarding proposed interim changes to SB1.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000238	Notes and bulleted talking points for Representative Cain's use regarding HB 6.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000247	Notes and talking points for Representative Cain's use regarding an unspecified election bill.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court

⁶ The State Legislators initially asserted that this document was also protected by the attorney-client privilege and work-product doctrine but have withdrawn their assertions. ECF No. 417.

				finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000248	Email between Representative Cain and his Chief of Staff concerning SB 7 with PDF attachment of redlined election legislation concerning drive-thru voting.	To: Justin Williamson (Rep. Cain Chief of Staff) From: Rep. Cain	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000259	Redlined draft of an unspecified elections bill related to curbside voting.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000269	Redlined draft of HB 6 containing legislator's handwritten notes.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_00003746	SB 1 conference committee report. Comparison of House and Senate Bills with the Committee updates.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_00003951	Testimony via email to the Senate Committee on State Affairs stating opposition to SB 1's poll-watcher provisions. Document contains	To: The Senate Committee on State Affairs From: Zenobia Joseph	Legislative.	PRODUCE. This document is not subject to legislative privilege as it was authored by a non-

	handwritten annotations.			legislative third party. Rep. Murr's annotations are privileged, though, and subject to the five-factor balancing test under <i>Rodriguez</i> .
PDOC_00003958 ⁷	Email from Patty Ducayet, an HHS employee, stating concerns with HB 3. Document has handwritten notes at the top.	To: Logan Harrison Cc: Kristen Mills From: Patty Ducayet	Legislative	PRODUCE. This document is not subject to legislative privilege as it was authored by a non-legislative third party. The handwritten notes are privileged, but for the reasons stated in the Court's order the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_00003961	Representative Bucy's bulleted talking points concerning HB 3.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_00004651	Representative Murr's typed notes, document entitled "Recommended Technical Amendments to HB 3." Contains handwritten annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.

⁷ The State Legislators informed the Court that the document was not completely withheld, but produced with redactions. ECF No. 417 at 3.

PDOC_00004658	Handwritten annotations to Representative Turner's proposed floor amendments to HB 3.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_00004669	Coalition of Texas with Disabilities Report to Representative Murr concerning notice-and-cure language in SB 1018 (predecessor to SB 1). Report has Representative Murr's handwritten notes.	Unknown	Legislative.	PRODUCE. This document is not subject to legislative privilege as it was authored by a non-legislative third party. The handwritten notes are privileged, but for the reasons stated in the Court's order the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_00004690	Representative Murr's unofficial HB 3 workup that analyzes and summarizes various provisions of the bill.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_00005253	Proposed amendment to SB 1 with redlining.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_00005316	Representative Murr's notes and draft script concerning conference	Unknown	Legislative	PRODUCE. For the reasons stated in the

	committee report on SB 1. Contains handwritten notes and annotations as well as a copy of the conference committee report.			Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_00005385	Draft script prepared for SB 1's layout that contains handwritten notes and annotations as well as a redlined version of the SB 1 layout.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_00005402	Comparison table analyzing, section-by-section, SB 1 as introduced and the committee substitute, with highlights and redlining.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_00005481	Typed notes on potential amendments to SB 1 and draft language.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_00005488	Representative Murr's handwritten notes concerning floor debate and possible remarks.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_00005488	Document from Representative Murr's briefing book concerning drafting election legislation. Includes	From: Zachary Cochran (Rep. Bernal's Chief of Staff)	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court

	email correspondence between Representative Murr and Representative Bernal as well as a handwritten note.	To: dbernal.docs@gmail.com		finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0001032	Senator Bettencourt's typed notes concerning election-fraud prosecutions in the state as well as election security concerns in Harris County.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0001071	Email containing 9/24/2020 press release from OAG announcing joint prosecution of mail-in ballot scheme.	To: Don Barber From: Office of the Attorney General	Legislative	PRODUCE. This document is not subject to legislative privilege as it was authored by a non-legislative third party.
DOC_0001092	Data concerning "JA request tracking, unsolicited mail-in ballot applications" kept in Senator Bettencourt's personal file.	Unknown	Legislative	PRODUCE. Documents containing factually based information used in the decision-making process are not privileged.
DOC_0001154	Heritage Foundation report concerning election integrity.	Unknown	Legislative	PRODUCE. This document is not subject to legislative privilege as it was authored by a non-legislative third party.
PDOC_0000015	Letter from Election Integrity Project concerning HB 3 and SB 1 with a comparison of the two bills and comments from the organization. Also includes an attachment of a draft bill of SB 1 with Senator Hughes' comments.	Unknown	Legislative	PRODUCE. This document is not subject to legislative privilege as it was authored by a non-legislative third party. Senator Hughes' handwritten notes are privileged, though, and subject to the five-factor balancing test under

				<i>Rodriguez.</i>
PODC_000045	Redlined draft of HB 3 with Senator Hughes' handwritten notes and annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_000067	Redlined draft of unspecified election bill.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0000110	Notes from Senator Hughes' office regarding pending election legislation and priorities for said legislation.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PODC_0000114	Handwritten and typed notes regarding SB 1 conference committee report.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0000198	Letter from Texas Association of Elections Administrators to LG Dan Patrick and Speaker Dade Phelan concerning SB 7 (predecessor to SB 1). Contains Senator Hughes' annotations.	To: LG Dan Patrick, Speaker Dade Phelan Cc: Gov. Abbott, Sec. Esparza, Texas House, Texas Senate From: Texas Association	Legislative	PRODUCE. This document is not subject to legislative privilege as it was authored by a non-legislative third party. The handwritten notes are

		of Elections Administrators		privileged, but for the reasons stated in the Court's order the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002351	Senator Hughes' typed notes summarizing certain provisions of SB 1.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002357	Redlined draft of unspecified elections bill, containing comments, notes, and other annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002393	Redlined draft of unspecified elections bill, containing comments, notes, and other annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002426	Draft amendment to SB 7 containing Senator Hughes' handwritten annotations and notes.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.

PDOC_0002431	Draft amendment to SB 7 containing Senator Hughes' handwritten annotations and notes.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002441	Redlined draft of SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002464	Senator Hughes' notes concerning amendments to SB 7 that contain handwritten notes and markings.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002467	Draft amendment to SB 7 containing handwritten notes by Senator Hughes.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002520	Redlined proposed amendment to unspecified election legislation, containing Senator Hughes' handwritten notes and annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.

PODC_0002530	Typed notes concerning election legislation with handwritten annotations and markings by Senator Hughes.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002540	Typed notes Senator Hughes prepared for meeting with Representative Murr regarding HB 3 and SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002542	Typed notes summarizing content of proposed election legislation. Contains some handwritten notes.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test..
PDOC_0002546	Typed notes concerning amendment to SB 7 with a handwritten note.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002569	Redlined draft of SB 7 with handwritten annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.

PDOC_0002609	Redlined draft of SB 7 with comments, notes, and other annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002632	Redlined draft excerpt of SB 7 with comments, notes, and other annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002643	Typed notes, titled "Election Integrity Bill Ideas." Written ideas for bills, suggestions were received from third parties outside the legislature.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002660	Redlined draft excerpt of SB 7 with comments, notes, and other annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002683	Redlined draft excerpt of SB 7 with comments, notes, and other annotations.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.

PDOC_0002708	Redlined draft of SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002774	A chart comparing HB 3 and SB 1 containing handwritten notes and comments.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002808	Redlined draft of SB 7 containing comments, notes, and other annotations. Many of the notes reveal comments by Elizabeth Alvarez.	Unknown	Legislative	PRODUCE. The comments in this draft show a waiver of the privilege by disclosing the document to a non-legislative third party.
PDOC_0002888	Data concerning numbers of Democratic voters requiring assistance in Gregg County.	Unknown	Legislative	PRODUCE. Documents containing factually based information used in the decision-making process are not privileged.
PDOC_0002890	<p>Typed notes concerning amendments to SB 1 as well as bulleted talking points.</p> <p>There is also data from an unknown source concerning applications for mail-in ballots by Democratic voters.</p>	Unknown	Legislative	PRODUCE. Documents containing factually based information used in the decision-making process are not privileged. The notes and talking points are privileged, but for the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under

				the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002907	Legislator's notes and talking points for floor speech concerning election legislation.	Unknown	Legislative.	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0002910	A document that cross-references provisions of SB 1 with the Texas Election Code.	Unknown	Legislative	PRODUCE. Documents containing factually based information used in the decision-making process are not privileged.
PDOC_0002920	A document that cross-references provisions of SB 1 with the Texas Election Code.	Unknown	Legislative	PRODUCE. Documents containing factually based information used in the decision-making process are not privileged.
PDOC_0002929	A document that cross-references provisions of SB 1 with the Texas Election Code.	Unknown	Legislative	PRODUCE. Documents containing factually based information used in the decision-making process are not privileged.
PDOC_0002936	A document that cross-references provisions of SB 1 with the Texas Election Code.	Unknown	Legislative	PRODUCE. Documents containing factually based information used in the decision-making process are not privileged.
PDOC_0002948	A document that cross-references provisions of SB 1 with the Texas Election Code.	Unknown	Legislative	PRODUCE. Documents containing factually based information used in the decision-making process are not privileged.

PDOC_0002960	A document that cross-references provisions of SB 1 with the Texas Election Code.	Unknown	Legislative	PRODUCE. Documents containing factually based information used in the decision-making process are not privileged.
PDOC_0002980	A document that cross-references provisions of SB 1 with the Texas Election Code.	Unknown	Legislative	PRODUCE. Documents containing factually based information used in the decision-making process are not privileged.
PDOC_0002990	A document that cross-references provisions of SB 1 with the Texas Election Code.	Unknown	Legislative	PRODUCE. Documents containing factually based information used in the decision-making process are not privileged.
PDOC_0003034	Redlined draft of SB 7 containing comments, notes, annotations, and markings.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0003119	Redlined draft of SB 7 containing comments, notes, annotations, and markings.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
PDOC_0003199	Redlined draft of SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.

DOC_0000437	Redlined draft of conference committee report of SB 7 that contains markings and notes.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000438	Redlined draft of conference committee report of SB 7 that contains markings.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000439	Redlined draft of conference committee report of SB 7 that contains markings.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000440	Redlined draft of conference committee report of SB 7 that contains markings.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000441	Redlined draft of SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.

DOC_0000442	Chart prepared by Senator Hughes' staff outlining certain provisions of SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000443	Typed notes concerning possible amendments to SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000447	Notes and comments concerning objections to SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000455	Typed notes summarizing SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000457	Draft press release pertaining to SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.

DOC_0000458	Draft press release pertaining to SB 7. Contains track changes.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000462	Redlined draft of SB 7 for purposes of the Conference Committee.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000463	Redlined draft of SB 7 for purposes of the Conference Committee.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000464	Redlined draft of SB 7 for purposes of the Conference Committee.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000465	Redlined draft of SB 7 for purposes of the Conference Committee.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.

DOC_0000484	Redlined draft of SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000485	Redlined draft of SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000486	Redlined draft of SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000497	Email correspondence concerning proposed changes to SB 7.	To: Terry Snelson (TLC); Hope Shelton (Sen. Hughes GC); Elizabeth Alvarez (Private attorney) Cc: Adam Moses (TLC); Carey Eskridge (TLC); Drew Tedford (State Affairs Comm. Director); Alix Morris (Lt. Gov); Justin Williamson From: Jessica Hart (Elections Comm. Staffer)	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived, as the communication extends to the executive branch. Further, any attorney-client privilege has been waived by disclosure to a third party (Alix Morris). Work-product protections do not apply as the documents were not prepared by parties to the underlying suit.

DOC_0000508	Email correspondence concerning proposed changes to SB 7.	To: Terry Snelson; Hope Shelton; Elizabeth Alvarez Cc: Adam Moses; Carey Eskridge; Drew Tedford; Alix Morris; Justin Williamson From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived, as the communication extends to the executive branch. Further, any attorney-client privilege has been waived by disclosure to a third party (Alix Morris). Work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000554	Legislator's typed notes regarding proposed changes to SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000555	Map showing Harris County drive thru and 24-hour voting locations.	Unknown	Legislative	PRODUCE. Documents containing factual information used in the decision-making process are not privileged.
DOC_0000556	Map showing Harris County drive thru voting locations.	Unknown	Legislative	PRODUCE. Documents containing factual information used in the decision-making process are not privileged.
DOC_0000557	Map showing Harris County drive thru and 24-hour voting locations.	Unknown	Legislative	PRODUCE. Documents containing factual information used in the decision-making process are not privileged.

DOC_0000539	Typed notes concerning legislative testimony taken on SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000576	Typed, section-by-section summary of SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000603	Notes and talking points, including a draft Q&A as well as a summary of negotiations with other legislators.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000603	Legislator's typed notes concerning federal law on voter assistance (VRA section 208).	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000606	Legislator's typed notes concerning an audit of Maricopa County, AZ's election process and how to utilize those results to inform SB 1.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.

DOC_0000607	Memorandum on voting assistance in the vote-by-mail context.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000628	Memorandum and draft Q&A concerning SB 1's effects.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000629	Talking points and draft Q&A on SB 1.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000640	A document that cross-references provisions of SB 1 with the Texas Election Code.	Unknown	Legislative	PRODUCE. Documents containing factually based information used in the decision-making process are not privileged.
DOC_0000640	Notes and talking points for layout of SB 1 floor amendment.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000664	Legislator's typed section-by-section summary of SB 1.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court

				finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000665	Legislator's typed section-by-section summary of SB 1.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000675	Notes and talking points, including draft Q&A on SB 1.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000695	Redlined draft of SB 7.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000696	Legislator's typed notes concerning federal law on voter assistance.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000697	Legislator's typed section-by-section summary of HB 3.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative

				privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000702	Notes and bulleted talking points for an amendment to an unspecified election bill.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000737	Text correspondence between Senator Hughes and his general counsel concerning pending legislation.	To: Senator Hughes From: Hope Shelton	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000739	Text correspondence between Senator Hughes and an unknown party concerning pending election legislation.	From: Senator Hughes To: Unknown ⁸	Legislative	PRODUCE. The legislative privilege is waived as the Court cannot confirm the identity of the recipient.
DOC_0000742	Text correspondence between Senator Hughes and an unknown party concerning pending election legislation.	From: Senator Hughes To: Unknown	Legislative	PRODUCE. The legislative privilege is waived as the Court cannot confirm the identity of the recipient.
DOC_0000743	Text correspondence between Senator Hughes and an unknown party concerning pending election legislation.	From: Senator Hughes To: Unknown	Legislative	PRODUCE. The legislative privilege is waived as the Court cannot confirm the

⁸ The text messages were provided to the Court in PNG and JPEG format, and the privilege log does not contain any specification as to whom these communications were sent. Though the log submits the text messages are correspondence between Senator Hughes and "legislative staff," the Court has no way of confirming this. The Court also notes that it is unable to confirm the identity of the recipient because the text messages provided to the Court are, for the most part, illegible. As such, the Court finds the privilege is waived.

				identity of the recipient.
DOC_0000747	Text correspondence between Senator Hughes' general counsel and an unknown party.	From: Unknown To: Hope Shelton	Legislative	PRODUCE. The legislative privilege is waived as the Court cannot confirm the identity of the sender.
DOC_0000748	Text correspondence between Senator Hughes and an unknown party concerning pending election legislation.	From: Senator Hughes To: Unknown	Legislative	PRODUCE. The legislative privilege is waived as the Court cannot confirm the identity of the recipient.
DOC_0000750	Text correspondence between Senator Hughes and an unknown party concerning pending election legislation.	From: Senator Hughes To: Unknown	Legislative	PRODUCE. The legislative privilege is waived as the Court cannot confirm the identity of the recipient.
DOC_0000755	Text correspondence between Drew Tedford, Jordan Berry, and Matt Murdoch.	To: Drew Tedford (State Affairs Comm. Director) Cc: Jordan Berry ⁹ ; Matt Murdoch (Angela Paxton Staffer) From: Unknown	Legislative	PRODUCE. The legislative privileged is waived with respect to communications with a non-legislative party.
DOC_0000756	Text correspondence between Senator Hughes, Jordan Berry, and Matt Murdoch.	To: Senator Hughes Cc: Jordan Berry; Matt Murdoch From: Unknown	Legislative	PRODUCE. The legislative privileged is waived with respect to communications with a non-legislative party.

⁹ The privilege log does not specify what Mr. Berry's employment status is within the legislature. In his affidavit, Senator Hughes states that Mr. Berry is "employed by myself for communications." ECF No. 397-7 at 5. Given that legislative staffers are expressly designated as "legislative staffers" in the log and in Senator Hughes' affidavit, the Court finds that Mr. Berry is not a legislative staffer. Thus, the Court concludes the privilege is waived in communications involving Mr. Berry. *See ACORN v. County of Nassau*, No. CV05-2301(JFB)(WDW), 2007 WL 2815810, at *6 (E.D.N.Y. Sept. 25, 2007) (concluding that where a government entity retains an outside advisor, communications between the advisor and legislative actor are not subject to legislative privilege).

DOC_0000757	Text correspondence between Senator Hughes, Jordan Berry, and Matt Murdoch.	To: Senator Hughes Cc: Jordan Berry; Matt Murdoch From: Unknown	Legislative	PRODUCE. The legislative privileged is waived with respect to communications with a non-legislative party.
DOC_0000250	Analysis of an unspecified elections bill. Log states the document was received by legislative staff from a “third party not employed by the legislature.”	Unknown	Legislative	PRODUCE. The document is not privileged as it was produced by a non-legislative third party.
DOC_0000251	Analysis of an unspecified elections bill. Log states the document was received by legislative staff from a “third party not employed by the legislature.”	Unknown	Legislative	PRODUCE. The document is not privileged as it was produced by a non-legislative third party.
DOC_0000252	Analysis of an unspecified elections bill. Log states the document was received by legislative staff from a “third party not employed by the legislature.”	Unknown	Legislative	PRODUCE. The document is not privileged as it was produced by a non-legislative third party.
PDOC_00003286	Texas Public Policy Foundation report on election integrity and policy kept in Representative Murr’s files.	Unknown	Legislative	PRODUCE. The document is not privileged as it was produced by a non-legislative third party.
PDOC_00003329	Texas Public Policy Foundation report on election integrity and policy kept in Representative Murr’s files.	Unknown	Legislative	PRODUCE. The document is not privileged as it was produced by a non-legislative third party.
PDOC_00003366	Texas Public Policy Foundation report on election integrity and policy kept in Representative Murr’s files.	Unknown	Legislative	PRODUCE. The document is not privileged as it was produced by a non-legislative third party.

PDOC_00003406	Texas Public Policy Foundation report on election integrity and policy kept in Representative Murr's files.	Unknown	Legislative	PRODUCE. The document is not privileged as it was produced by a non-legislative third party.
PDOC_00003446	Texas Public Policy Foundation report on election integrity and policy kept in Representative Murr's files.	Unknown	Legislative	PRODUCE. The document is not privileged as it was produced by a non-legislative third party.
PDOC_00003887	Fiscal note concerning SB 1.	From: Jerry McGinty (Director of the Legislative Budget Board) To: Lt. Gov. Patrick; Speaker Dade Phelan	Legislative	PRODUCE. This document is not privileged. Fiscal notes produced by the Legislative Budget Board are public information and published on Texas Legislature Online.
PDOC_00003889	Criminal justice impact statement concerning SB 1.	From: Jerry McGinty To: Lt. Gov. Patrick; Speaker Dade Phelan	Legislative	PRODUCE. This document is not privileged. Criminal justice impact statements produced by the Legislative Budget Board are public information and published on Texas Legislature Online.
PDOC_00003940	Letter to Representative Murr concerning recommendations for HB 3. Contains Representative Murr's handwritten markings and annotations.	From: Catherine Learoyd (President of the League of Women Voters) To: Representative Murr	Legislative	PRODUCE. The letter is not privileged as it was authored by a non-legislative third party. Handwritten notes on the letter are privileged, though, and should be redacted.

DOC_0000822	Email correspondence from a party chairman concerning pending election litigation.	From: Alan Vera (Chairman of the Republican Party Ballot Security Committee) To: Sonya Aston (Sen. Bettencourt's general counsel)	Legislative	PRODUCE. Any privilege has been waived as the communication is with a non-legislative third-party.
DOC_0000824 D1	Letter from Keith Ingram to OAG criminal investigation unit concerning alleged election-law violation.	From: Keith Ingram (Office of the Secretary of State, Elections Division Director) To: Jason Anderson (Office of the Attorney General) Cc: Alan Vera	Legislative; Investigative	PRODUCE. This document is not subject to legislative privilege as it was authored by an executive branch employee. Further, the State Legislators have not met their burden to show that the investigative privilege applies.
DOC_0000834	Email correspondence concerning proposed amendments to SB 7.	From: Bill Sargent To: Sonya Aston (Sen. Bettencourt's general counsel)	Legislative ¹⁰	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000835	Attachment to the email correspondence above (B15). Document contains proposed amendments to SB 7.	From: Bill Sargent To: Sonya Aston	Legislative	PRODUCE. This document is not subject to legislative privilege as it was authored by a non-legislative third party.
DOC_0000840	Email correspondence concerning drive-thru voting in Harris County.	From: Alan Vera To: Sonya Aston	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third

¹⁰ The State Legislators originally asserted both work-product and attorney-client privilege as to Documents DOC_0000834, DOC_0000840, DOC_0000845, DOC_0000850, DOC_0000865, DOC_0000868, and DOC_0000869, but have since withdrawn such assertions. ECF No. 417.

				party.
DOC_0000845	Email correspondence concerning election security in Harris County.	From: Alan Vera To: Sonya Aston	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000850	Email correspondence concerning Harris County Elections Administrator Longoria.	From: Alan Vera To: Sonya Aston	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000865	Email correspondence concerning complaints Mr. Vera had lodged against certain individuals with the Secretary of State.	From: Alan Vera To: Sonya Aston	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000868	Email correspondence concerning talking points for lobbyists on drive-thru voting.	From: Alan Vera To: Sonya Aston	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000869	Email forwarding contents of communications from lobbying groups.	From: Alan Vera To: Sonya Aston	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000961	Heritage Foundation report concerning instances of election fraud.	Unknown	Legislative	PRODUCE. This document is not subject to legislative privilege as it was authored by a non-

				legislative third party.
DOC_0000967	Letter sent via email to County Clerk of Wichita County concerning voter registration in Wichita County.	To: Lori Bohannon (County Clerk, Wichita County) Cc: Senator Springer From: Senator Bettencourt	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000968	Letter sent via email to County Clerk of Wichita County concerning voter registration in Wichita County.	To: Lori Bohannon Cc: Senator Springer From: Senator Bettencourt	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0001000	Letter sent via email to County Clerk of Wichita County concerning voter registration in Wichita County.	To: Lori Bohannon Cc: Senator Springer From: Senator Bettencourt	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0001001	Letter sent via email to County Clerk of Wichita County concerning voter registration in Wichita County.	To: Lori Bohannon Cc: Senator Springer From: Senator Bettencourt	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0001055	Email correspondence from legislator's staff to OAG concerning an election complaint.	To: Ryan Fisher (OAG) Cc: Benjamin Barkley (Sen. Bettencourt staffer); Marc Salvato (Sen. Bettencourt staffer) From: Don Barer (Sen. Bettencourt staffer)	Legislative; investigative ¹¹	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party. Further, the State

¹¹ The State Legislators initially asserted that this document was also subject to attorney-client privilege, but have since withdrawn their assertion. ECF No. 417.

				Legislators have not met their burden to show that the investigative privilege applies.
DOC_0001056 D3	Email correspondence with attachments relating to alleged election law violations.	To: Don Barber; Benjamin Barkely From: Alan Vera	Legislative; investigative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party. Further, the State Legislators have not met their burden to show that the investigative privilege applies.
DOC_0001057 D4	Attachment to correspondence discussed above (B29). Attachment is a video of Rep. Eastman speaking to voters.	To: Don Barber; Benjamin Barkely From: Alan Vera	Legislative; investigative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party. Further, the State Legislators have not met their burden to show that the investigative privilege applies.
DOC_0001058 D5	Attachment to correspondence discussed above (B29). Attachment is an election complaint to the Secretary of State.	To: Don Barber; Benjamin Barkely From: Alan Vera	Legislative; investigative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party. Further, the State Legislators have not met their burden to show that the investigative privilege applies.
DOC_0001059 D6	Attachment to correspondence discussed above (B29). Attachment	To: Don Barber; Benjamin Barkely	Legislative; investigative	PRODUCE. The legislative privilege has

	is an informational pamphlet from Rep. Eastment on mail-in voting.	From: Alan Vera		been waived as the communication is with a non-legislative third-party. Further, the State Legislators have not met their burden to show that the investigative privilege applies.
DOC_0001062 D7	Email correspondence with attachments relating to alleged election law violations.	To: Don Barber; Benjamin Barkely From: Alan Vera	Legislative; investigative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party. Further, the State Legislators have not met their burden to show that the investigative privilege applies.
DOC_0001063 D8	Attachment to correspondence discussed above (B33). Attachment is an application for a mail-in ballot.	To: Don Barber; Benjamin Barkely From: Alan Vera	Legislative; investigative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party. Further, the State Legislators have not met their burden to show that the investigative privilege applies.
DOC_0001064 D9	Attachment to correspondence discussed above (B33). Attachment is an election complaint to the secretary of state.	To: Don Barber; Benjamin Barkely From: Alan Vera	Legislative; investigative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party. Further, the State Legislators have not met their burden to show that

				the investigative privilege applies.
DOC_0001066 D10	Email correspondence concerning alleged election-law violations in requests for mail-in ballots.	To: Don Barber; Benjamin Barkely From: Alan Vera	Legislative; investigative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party. Further, the State Legislators have not met their burden to show that the investigative privilege applies.
DOC_0001067 D11	Attachment to correspondence discussed above (B36). A spreadsheet containing the names, addresses, dates of birth, gender, voter IDs, and notes concerning partisanship of persons suspected of election-law violations in requesting a mail-in ballot.	To: Don Barber; Benjamin Barkely From: Alan Vera	Legislative; investigative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party. Further, the State Legislators have not met their burden to show that the investigative privilege applies.
DOC_0001071	Emailed copy of a press release from Attorney General Paxton's office concerning prosecution of alleged election-law violations.	To: Don Barber From: Office of the Attorney General	Legislative	PRODUCE. This document is not subject to legislative privilege as it was authored by an executive branch employee.
DOC_0001128	Heritage Foundation report concerning election fraud cases.	Unknown	Legislative	PRODUCE. The document is not privileged as it was produced by a non-legislative third party.
DOC_0001151	Public Interest Legal Foundation report concerning best practices for achieving integrity in voter	Unknown	Legislative	PRODUCE. The document is not privileged as it was

	registration.			produced by a non-legislative third party.
DOC_0001154	Heritage Foundation report concerning election integrity.	Unknown	Legislative	PRODUCE. The document is not privileged as it was produced by a non-legislative third party.
DOC_0000287	Survey of county clerks concerning voting at residential-care facilities contained in the Senate Committee on Election Security's file.	Unknown	Legislative	PRODUCE. Documents containing factual information used in the decision-making process are not privileged.
DOC_0000289	Letters on behalf of the Senate Select Committee on Election Security to numerous county elections administrators requesting a precinct-by-precinct breakdown of the mail ballot results for the March 6, 2018 election in the administrator's respective county.	To: Jose Salvador Tellez; Kathryn Nealy; Kara Sands; Toni Pippins-Poole; Brenda Samples; Lupe Torres From: Sen. Bettencourt, on behalf of the Senate Select Committee on Elections Security	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party.
DOC_0000290	Letters on behalf of the Senate Select Committee on Election Security to Dallas County Elections Administrator requesting a precinct-by-precinct breakdown of the mail ballot results for the March 6, 2018 election in the Dallas County.	To: Toni Pippins-Poole; From: Sen. Hughes, on behalf of the Senate Select Committee on Elections Security	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party.
DOC_0000321	Forwarded email from Starr County DA with proposed election legislation.	To: Drew Tedford From: Jonathan White	Legislative; attorney-client	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party. Additionally, this communication was not

				for the purpose of obtaining legal advice so the attorney-client privilege does not apply.
DOC_0000329	Forwarded email that Keith Ingram previously sent to Alan Vera concerning election procedures.	To: Drew Tedford From: Keith Ingram	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000369	Letters on behalf of the Senate Select Committee on Election Security to numerous county elections administrators requesting a precinct-by-precinct breakdown of the mail ballot results for the March 6, 2018 election in the administrator's respective county.	To: Jose Salvador Tellez; John Lee Rodriguez; Kathryn Nealy; Kara Sands; Toni Pippins-Poole; Brenda Samples; Lupe Torres From: Sen. Bettencourt, on behalf of the Senate Select Committee on Elections Security	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000371	Email correspondence concerning complaints of election-law violations pending with the SOS and referred to the OAG.	To: Drew Tedford From: Keith Ingram	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with an executive branch official.
DOC_0000372	Attachment to email correspondence discussed above (B48). Report containing pending complaints of election-law violations reported to the SOS.	To: Drew Tedford From: Keith Ingram	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with an executive branch official.
DOC_0000394	Email from Dallas County responding to Senator Hughes' request for a precinct-by-precinct breakdown of the mail ballot results in the March 6, 2018 primary elections.	To: Drew Tedford From: James R. Palomo (ADA for Dallas County)	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.

DOC_0000395	Attachment to email correspondence discussed above (B50). Precinct-by-precinct breakdown of mail-in votes for the March 2018 Democratic primary election.	To: Drew Tedford From: James R. Palomo	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000396	Attachment to email correspondence discussed above (B50). Precinct-by-precinct breakdown of mail-in votes for the March 2018 Republican primary election.	To: Drew Tedford From: James R. Palomo	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000397	Letters on behalf of the Senate Select Committee on Election Security to Dallas County Elections Administrator requesting a precinct-by-precinct breakdown of the mail ballot results for the March 6, 2018 election in the Dallas County.	To: Toni Pippins-Poole; From: Sen. Hughes, on behalf of the Senate Select Committee on Elections Security	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000449	Data assessing early voting statistics.	Unknown	Legislative	PRODUCE. Documents containing factual information used in the decision-making process are not privileged.
DOC_0000501	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Elizabeth Alvarez; Tracy Snelson Cc: Adam Moses; Carey Eskridge; Drew Tedford; Alix Morris; Hope Shelton; Justin Williamson From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the

				documents were not prepared by parties to the underlying suit.
DOC_0000503	Email regarding draft language for SB 7 with attachment.	To: Drew Tedford From: Alix Morris	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000504	Attachment to email correspondence discussed above (B57). Attachment is a redlined draft of SB 7.	To: Drew Tedford From: Alix Morris	Legislative	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third party.
DOC_0000512	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Elizabeth Alvarez; Tracy Snelson Cc: Adam Moses; Carey Eskridge; Drew Tedford; Alix Morris; Hope Shelton; Justin Williamson From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000517	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Jessica Hart Cc: Adam Moses; Carey Eskridge; Drew Tedford; Alix Morris; Hope Shelton; Justin Williamson From: Elizabeth Alvarez	Legislative; attorney-client	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the

				attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000518	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Jessica Hart Cc: Adam Moses; Carey Eskridge; Drew Tedford; Alix Morris; Hope Shelton; Justin Williamson From: Elizabeth Alvarez	Legislative; attorney-client	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000519	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Jessica Hart; Elizabeth Alvarez; Tracy Snelson Cc: Adam Moses; Carey Eskridge; Drew Tedford; Alix Morris; Justin Williamson From: Hope Shelton	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the

				documents were not prepared by parties to the underlying suit.
DOC_0000520	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Hope Shelton; Elizabeth Alvarez; Tracy Snelson Cc: Adam Moses; Carey Eskridge; Drew Tedford; Alix Morris; Justin Williamson From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000521	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Hope Shelton; Elizabeth Alvarez; Jessica Hart Cc: Adam Moses; Carey Eskridge; Drew Tedford; Alix Morris; Justin Williamson From: Tracy Snelson	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000522	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Hope Shelton; Elizabeth Alvarez; Tracy Snelson	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the

		Cc: Adam Moses; Carey Eskridge; Drew Tedford; Alix Morris; Justin Williamson From: Jessica Hart		communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000523	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Hope Shelton; Elizabeth Alvarez; Tracy Snelson; Jessica Hart Cc: Carey Eskridge; Drew Tedford; Alix Morris; Justin Williamson From: Adam Moses	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000524	Email correspondence with attachment concerning drafting instructions and proposed language for SB 7.	To: Hope Shelton; Elizabeth Alvarez; Tracy Snelson; Adam Moses Cc: Carey Eskridge; Drew Tedford; Alix Morris; Justin Williamson From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the

				communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000525	Attachment to email correspondence discussed above (B68). Attachment is draft of SB 7.	To: Hope Shelton; Elizabeth Alvarez; Tracy Snelson; Adam Moses Cc: Carey Eskridge; Drew Tedford; Alix Morris; Justin Williamson From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000527	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Jessica Hart Cc: Alix Morris; Drew Tedford; Hope Shelton From: Elizabeth Alvarez	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.

DOC_0000528	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Elizabeth Alvarez Cc: Alix Morris; Drew Tedford; Hope Shelton From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000529	Email correspondence with attachment concerning drafting instructions and proposed language for SB 7.	To: Elizabeth Alvarez Cc: Alix Morris; Drew Tedford; Hope Shelton From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000530	Attachment to email correspondence discussed above (B72). Attachment is typed notes concerning proposed edits and amendments to SB 7.	To: Elizabeth Alvarez Cc: Alix Morris; Drew Tedford; Hope Shelton From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the

				attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000531	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Elizabeth Alvarez Cc: Alix Morris; Drew Tedford; Hope Shelton From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000532	Attachment to email correspondence discussed above (B74). Attachment is typed notes concerning proposed edits and amendments to SB 7.	To: Elizabeth Alvarez Cc: Alix Morris; Drew Tedford; Hope Shelton From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the

				documents were not prepared by parties to the underlying suit.
DOC_0000533	Email correspondence concerning drafting instructions and proposed language for SB 7.	To: Elizabeth Alvarez Cc: Alix Morris; Drew Tedford; Hope Shelton From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000534	Attachment to email correspondence discussed above (B76). Attachment is typed notes concerning proposed edits and amendments to SB 7.	To: Elizabeth Alvarez Cc: Alix Morris; Drew Tedford; Hope Shelton From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000538	Draft of SB 7 prepared by TLC.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court

				finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000539	Email correspondence with attachment concerning drafting instructions and proposed language for SB 7.	To: Adam Moses; Carey Eskridge Cc: Drew Tedford; Elizabeth Alvarez; Alix Morris; Hope Shelton; Justin Williamson From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000540	Attachment to email correspondence discussed above (B79). Attachment is typed notes concerning proposed edits and amendments to SB 7.	To: Adam Moses; Carey Eskridge Cc: Drew Tedford; Elizabeth Alvarez; Alix Morris; Hope Shelton; Justin Williamson From: Jessica Hart	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000541	Email correspondence to legislative staffers concerning proposed	To: Alexander Hammond; Marc Salvato; Anna	Legislative	PRODUCE. The legislative privilege has

	changed to SB 7 during reconciliation process.	Barnett; Josh Reyna; Aaron Harris; Carrie Smith; Tara Clements; Peter Einhorn; Margaret Wallace; Amy Lane; Stacey Chamberlin; Luis Moreno; Molly K Spratt; Cody Terry; Deisy Jaimes; Chris Steinbach; Ruben O'Bell; Pearl Cruz; Robert Borja; Dave Nelson; Angus Lupton; Randy Samuelson; Matthew Dowling; Garry Jones; Drew Graham; Johanna Kim; Terry Franks; Cari Christman; Lujana Barton; Lara Wendler; Jorge Ramirez Cc: Alix Morris; Hope Shelton From: Drew Tedford		been waived as the communication includes a non-legislative third party.
DOC_0000546	Email correspondence with attachment between private attorney and legislative staffers concerning proposed changes to SB 7.	To: Jessica Hart; Sloan Byerly; Alix Morris; Drew Tedford From: Elizabeth Alvarez	Attorney-client; Legislative	PRODUCE. The legislative privilege has been waived as the communication includes non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication.
DOC_0000547	Attachment to correspondence discussed above (B82). Attachment is redlined draft of SB 7.	To: Jessica Hart; Sloan Byerly; Alix Morris; Drew Tedford From: Elizabeth Alvarez	Attorney-client; Legislative	PRODUCE. The legislative privilege has been waived as the communication includes

				non-legislative third parties. Additionally, the attorney-client privilege has been waived as third parties are included in the communication.
DOC_0000602	Unknown legislator's typed notes regarding Texas election system, citizenship verification, and enforcement of election laws.	Unknown	Legislative	PRODUCE. For the reasons stated in the Court's order, the Court finds that the legislative privilege is excused under the <i>Rodriguez</i> five-factor balancing test.
DOC_0000619	Email correspondence providing information regarding an alleged instance of election fraud in Hidalgo in 2016.	To: Drew Tedford From: Jonathan White (OAG)	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party. Additionally, this communication was not for the purpose of obtaining legal advice, so the attorney-client privilege does not apply. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000624	Attachment to email correspondence discussed above (B85). Attachment is a court transcript from the criminal trial on the alleged election fraud.	To: Drew Tedford From: Jonathan White	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party.

				Additionally, this communication was not for the purpose of obtaining legal advice, so the attorney-client privilege does not apply. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000715	Email correspondence concerning SB 9 and compliance with federal law.	To: Alix Morris Cc: Drew Tedford From: Jonathan White	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication is between non-legislative third parties. Additionally, the State Legislators have not shown the existence of an attorney-client relationship between Senator Hughes and/or his staff and the OAG or the Lieutenant Governor and his staff. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_0000734	Text correspondence concerning solicited information about election fraud.	To: Unknown From: Jonathan White	Legislative; attorney-client; work-product	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-

				party. Additionally, the communication was not for the purpose of obtaining legal advice and the attorney-client privilege does not apply. Finally, work-product protections do not apply as the documents were not prepared by parties to the underlying suit.
DOC_000070	Text correspondence concerning solicited information about election fraud.	To: Unknown From: Jonathan White	Legislative; attorney-client	PRODUCE. The legislative privilege has been waived as the communication is with a non-legislative third-party. Additionally, the communication was not for the purpose of obtaining legal advice and the attorney-client privilege does not apply.
DOC_0000477	Comparison chart prepared by an unknown legislator's general counsel summarizing changes made to SB 7 and suggestions to amend certain provisions.	Unknown	Legislative; attorney-client; work-product	PRIVILEGED. ¹² The document was prepared by counsel for the purpose of providing legal advice, and it is subject to the attorney-client privilege.

¹² The Court construes this assertion of attorney-client privilege liberally on behalf of the State Legislators. Neither the log nor document itself indicate the name of the author, with whom the document was shared, or any other relevant information. The log merely indicates that the document was created "by general counsel [for] legislator's use at Conference Committee[.]" ECF No. 392 at 285.