



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

November 30, 2009

Mr. W. Lee Auvenshine
Assistant County and District Attorney
Ellis County and District Attorney's Office
1201 North Highway 77 Suite 104
Waxahachie, Texas 75165-7832

OR2009-16851

Dear Mr. Auvenshine:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 362391.

The Ellis County Auditor (the "county") received a request for the county's current contract for inmate telephone services at the county jail. Although the county takes no position on the public availability of the information you have submitted, you believe that the information may implicate the interests of SECURUS Technologies, Inc. ("SECURUS"). You inform us that SECURUS was notified of this request for information and of its right to submit arguments to this office as to why the submitted information should not be released.¹ We have reviewed the submitted information.

A third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 of the Government Code to submit its reasons, if any, as to why information relating to the third party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, this office has received no correspondence from SECURUS. Therefore, because SECURUS has not demonstrated that any of the submitted information is proprietary for the purposes of the Act, the county may not withhold any of the information on that basis. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999).

We note that some of the submitted information appears to be protected by copyright. A governmental body must allow inspection of copyrighted information unless an exception to disclosure applies to the information. *See* Attorney General Opinion JM-672 (1987). An

¹*See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

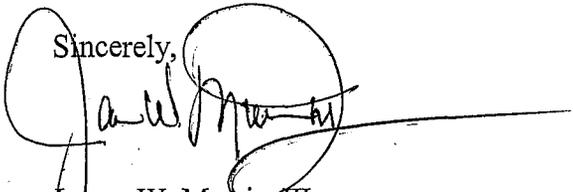
officer for public information also must comply with copyright law, however, and is not required to furnish copies of copyrighted information. *Id.* A member of the public who wishes to make copies of copyrighted information must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 at 8-9 (1990).

In summary, the county must release the submitted information in its entirety, but any information that is protected by copyright may only be released in accordance with copyright law.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III", is written over a circular stamp. A horizontal line extends from the right side of the signature.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

Ref: ID# 362391

Enc: Submitted documents

c: Requestor
(w/o enclosures)

Mr. John J. Viola
T-NETIX, Inc.
14651 Dallas Parkway Suite 600
Dallas, Texas 75254
(w/o enclosures)