



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 10, 2015

Mr. Ryan S. Sullivan
Public Information Officer
County of Harris
1200 Baker Street
Houston, Texas 77002

OR2015-23668

Dear Mr. Sullivan:

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# 586565 (HCSO File No. 15SO10003).

The Harris County Sheriff's Office (the "sheriff's office") received a request for any contracts or memorandums of understanding and communications between the sheriff's office or any Harris County agency and Securus Technologies, Primonics Inc., JPay, or any other outside firm providing jail video visitation services. You claim the requested information is excepted from disclosure under sections 552.104, 552.108, and 552.110 of the Government Code.¹ We have considered the exceptions you claim.

Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Gov't Code § 552.301. Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving a request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental

¹Although you raise section 552.305 of the Government Code, we note this is not an exception to public disclosure under the Act. See Gov't Code §§ 552.024, .301, .305.

body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e). We note the sheriff's office received the request for information on August 21, 2015. However, as of the date of this letter, the sheriff's office has not submitted comments explaining why the stated exceptions apply or a copy or representative sample of the information at issue. Consequently, we find the sheriff's office failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Although you claim the requested information is excepted from disclosure under sections 552.104 and 552.108 of the Government Code, these are discretionary exceptions that protect a governmental body's interests and may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 592 (1991) (governmental body may waive statutory predecessor to section 552.104). Thus, in failing to comply with section 552.301, the sheriff's office has waived its claims under sections 552.104 and 552.108 of the Government Code. While section 552.110 of the Government Code can provide a compelling reason to withhold information, we note this section protects the interests of private parties that provide information to governmental bodies, not the interests of governmental bodies themselves. *See generally* Gov't Code § 552.110 (excepts from disclosure information an agency obtains from third party); Open Records Decision No. 592 (1991). Furthermore, you have failed to submit any information for our review. Thus, we have no choice but to order you to release the requested information in accordance with section 552.302 of the Government Code. If you believe the information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thana Hussaini', with a horizontal line drawn across the middle of the signature.

Thana Hussaini
Assistant Attorney General
Open Records Division

TSH/som

Ref: ID# 586565

c: Requestor