



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 25, 2011

Chief Deputy Stephen L. Girsh  
Hill County Sheriff's Office  
P.O. Box 283  
Hillsboro, Texas 76645

OR2011-12343

Dear Chief Deputy Girsh:

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# 429269.

The Hill County Sheriff's Office (the "sheriff") received a request for policies and procedures of the sheriff's office and Southern Health Partners ("Southern") regarding medical and psychological treatment and care of inmates of the county jail. Although you take no position on the public availability of the requested information, you believe the information implicates Southern's proprietary interests. You inform us Southern was notified of this request for information.<sup>1</sup> You have submitted comments the sheriff received from Southern. We have considered Southern's comments and reviewed the information you submitted.

Initially, we address Southern's comments regarding the company's expectations of confidentiality. Southern states it "protect[s] the information in [its] contracts and . . . requir[es] a confidentiality order in litigation." We note information is not confidential under the Act simply because the party submitting the information anticipates or requests it be kept confidential. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976). In other words, a governmental body cannot overrule or repeal provisions of the Act by agreement or contract. *See Attorney General Opinion JM-672 (1987)*; Open

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<sup>1</sup>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).

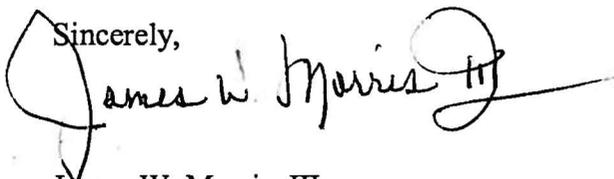
Records Decision Nos. 541 at 3 (1990) (“[T]he obligations of a governmental body under [the Act] cannot be compromised simply by its decision to enter into a contract.”), 203 at 1 (1978) (mere expectation of confidentiality by person supplying information did not satisfy requirements of statutory predecessor to Gov’t Code § 552.110). Thus, the submitted information must be released unless it falls within the scope of an exception to disclosure, notwithstanding any expectation or agreement to the contrary.

We note an interested third party is allowed ten business days from the date of its receipt of a 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 party should not be released. *See* Gov’t Code § 552.305(d)(2)(B). As of the date of this decision, Southern has not submitted any objections to disclosure of the submitted information to this office. Although Southern did submit comments to the sheriff, the company’s comments do not demonstrate any of the submitted information is proprietary for purposes of the Act. *See* Gov’t Code § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990) (attorney general will accept trade secret claim as valid under Gov’t Code § 552.110(a) if private person establishes *prima facie* case for exception and no one submits argument that rebuts claim as matter of law), 661 at 5-6 (1999) (business enterprise must show by specific factual evidence that release of information would cause substantial competitive harm). Therefore, the sheriff may not withhold any of the submitted information on the basis of any proprietary interest Southern may have in the information. Thus, as the sheriff does not claim an exception to disclosure, the submitted information must be released to the requestor.

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](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 that reads "James W. Morris, III". The signature is written in a cursive style with a large initial "J" and a long horizontal flourish extending to the right.

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

JWM/em

Ref: ID# 429269

Enc: Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Jennifer Machuca  
Southern Health Partners, Inc.  
c/o Chief Deputy Stephen L Girsh  
Hill County Sheriff's Office  
P.O. Box 283  
Hillsboro, Texas 76645  
(w/o enclosures)