



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 7, 2011

Ms. Molly Higgins Santos
Assistant County Attorney
Webb County
P.O. Box 420268
Laredo, Texas 78042-0268

OR2011-18029

Dear Ms. Santos:

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# 438130.

Webb County (the "county") received a request for (1) all audio and video footage from the county jail on a specified date at a specified time period related to the detention and medical treatment of a named individual; (2) all statements and medical information obtained from a named individual; and (3) all booking information obtained from the Laredo Police Department or generated by the county jail related to a named individual on a specified date. You claim that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim.

We must address the county's procedural obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(e), within fifteen business days of receipt of the request the governmental body must submit to this office (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 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* Gov't Code § 552.301(e). In this instance, you state the county received the request for information on September 16, 2011. Accordingly, the county's fifteen-business-day deadline was October 7, 2011. However, as of the date of this ruling, you have not submitted to this office written comments concerning your claimed exceptions or a copy or representative sample of any of the requested information. Consequently, we find the county failed to comply with section 552.301 of the Government Code.

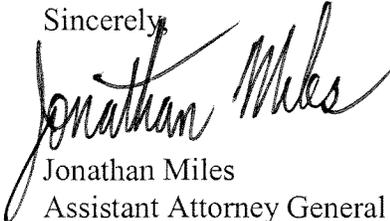
Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal

presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). Normally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. *See Open Records Decision No. 150 at 2* (1977). Although you raise sections 552.103 and 552.108 of the Government Code for the requested information, these sections are discretionary exceptions to disclosure that protect a governmental body's interests and may be waived. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 439, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions), 177 at 3 (1997) (statutory predecessor to section 552.108 subject to waiver). Thus, in failing to comply with the procedural requirements of section 552.301, you have waived your claims under sections 552.103 and 552.108 and the county may not withhold any of the requested information on these bases. Thus, we have no choice but to order the requested information released to the requestor pursuant to section 552.302 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.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,



Jonathan Miles

Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 438130

c: Requestor