



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 10, 2020

Mr. Tillman S. Roots
Assistant District Attorney
Comal County District Attorney's Office
150 North Seguin Avenue, Suite 307
New Braunfels, Texas 78130-5161

OR2020-15765

Dear Mr. Roots:

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# 834894 (File No. 20OR-041).

The County of Comal (the "county") received a request for information pertaining to the contract for inmate telephone services at the county jail. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code.¹ You also state you notified Inmate Calling Solutions, LLC d/b/a ICSolutions ("ICS") of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the submitted arguments and reviewed the submitted information.

We note the information at issue was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2020-09953 (2020). In that ruling, we determined, in pertinent part, the county (1) must withhold ICS's information we marked under section 552.110(b) of the Government Code; (2) must withhold the insurance policy numbers in the remaining information under section 552.136 of the Government Code; and, to the extent the information at issue pertains to a real, living individual, the county must withhold within the remaining information: (3) the information

¹ We note the county did not comply with the requirements of section 552.301(b) of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.110 of the Government Code and third-party interests can provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the submitted information. *See id.* §§ 552.007, .302, .352. Further, although the county also raises section 552.1101, it provides no arguments explaining how this exception is applicable to the information at issue. Therefore, we assume the county no longer asserts this exception. *See id.* §§ 552.301, .302.

we marked under section 552.101 of the Government Code in conjunction with the constitutional right to privacy; (4) the dates of birth belonging to identifiable individuals under section 552.101 of the Government Code in conjunction with common-law privacy, (5) the information we marked under section 552.130 of the Government Code; and (6) account and PIN numbers, to the extent this information consists of access device numbers, under section 552.136 of the Government Code. We also ruled the county must release the remaining responsive information; however, any information protected by copyright may only be released in accordance with copyright law. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, the county must continue to rely on Open Records Letter No. 2020-09953 as a previous determination and withhold or release ICS's information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). As we are able to make this determination, we need not address your submitted arguments.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Emily Kunst
Assistant Attorney General
Open Records Division

EK/be

Ref: ID# 834894

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)