



November 3, 2000

Ms. Ashley D. Fourt  
Assistant District Attorney  
County of Tarrant  
401 West Belknap  
Fort Worth, Texas 76196-0201

OR2000-4309

Dear Ms. Fourt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 140902.

The Tarrant County Sheriff's Department (the "department") received a request for certain videotapes of "cell extractions" that took place in the county jail "from January 1999 to present." You further inform this office with regard to the request that:

[o]n August 17, 2000 . . . an investigative reporter for a local television station, by and through his producer . . . verbally requested copies of 30 videotapes from [the department]. . . . The request for copies stems from an earlier Public Information Act request directed to [the department]. . . . In the earlier request, the Department provided numerous videotapes (approximately 275) which were inspected [by] the requestor and his producer. . . . This Office objects to release of two of the 30 videotapes the Sheriff's Department is prepared to provide to the requestor. This Office believes that these two tapes are excepted from public disclosure under sections 552.103 and 552.108 of [the Government Code].

For purposes of this ruling, this office will assume that the two videotapes at issue were not among those videotapes previously inspected by the requestor. *See* Gov't Code § 552.007 (prohibiting selective disclosure of public information). Although you do not explicitly state that you are requesting this decision on behalf of the department, given the representations contained in the submitted affidavit of Assistant District Attorney Kristi LaRoe, we will

assume that such is the case. Before we address the applicability of the exceptions to disclosure that you raise, however, we must first address certain procedural issues.

We note at the outset that you appear to have requested a decision from this office as the result of the verbal request for copies of, among other videotapes, the two videotapes at issue. Section 552.301(a) of the Government Code provides:

A governmental body that receives *a written request* for information that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions under Subchapter C must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions. [Emphasis added.]

Accordingly, the duty to request a decision from this office as to whether information may properly be withheld under the Public Information Act does not arise until the governmental body receives a written request for the information. Consequently, the verbal request received by the department on August 17, 2000 did not trigger the requirements of section 552.301 of the Government Code.

On the other hand, you inform this office that the department in fact did previously receive two written requests for the videotapes at issue.<sup>1</sup> From what we gather from the information you have provided to this office, the department received the first written request for *copies* of videotapes of cell extractions on June 6, 2000. The requestor subsequently narrowed his request, apparently in response to an itemized estimate of charges provided to him by the department pursuant to section 552.2615 of the Government Code. In his second written request, the requestor sought, among other things, to *inspect* a smaller number of the department's videotapes.<sup>2</sup> The department received this second request on June 29, 2000. It was the department's receipt of this second written request, and not the verbal request discussed above, that triggered the requirements of section 552.301. You first requested a decision from this office regarding this matter on August 29, 2000.

Section 552.301(b) of the Government Code requires a governmental body to request a decision from the attorney general within ten business days of receiving the written request

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<sup>1</sup>You did not, however, provide this office with "a signed statement as to the date on which the written request for information was received" as required by section 552.301(e)(1)(C) of the Government Code. For purposes of this ruling, we will assume the date stamps on these two written requests accurately reflect the dates on which the department first received them.

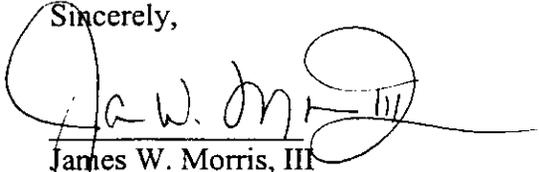
<sup>2</sup>Because you do not argue that the other requested information is excepted from public disclosure, we assume the department has released all remaining responsive information to the requestor. If it has not, it must do so at this time. See Gov't Code § 552.302.





If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris, III". The signature is written in a cursive style with a large, looping initial "J" and a long horizontal stroke extending to the right.

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

JWM/RWP/seg

Ref: ID# 140902

Encl. Submitted video tapes

cc: Mr. Bennett Cunningham  
Investigative Reporter  
CBS-11  
10111 N. Central Expwy.  
Dallas, Texas 75231  
(w/o enclosures)