



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

March 19, 2003

Ms. Grace E. Shin  
Assistant District Attorney  
Dallas County  
133 North Industrial Boulevard, LB 19  
Dallas, Texas 75207-4399

OR2003-1855

Dear Ms. Shin:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 178459.

The Dallas County District Attorney's Office (the "District Attorney") received a request for a copy of a videotape that portrays the arrest of a named individual for a driving while intoxicated offense. You assert the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. Also, you seek a determination as to whether an interagency transfer of the videotape would constitute a public release of the submitted information under the Public Information Act (the "Act"). We have reviewed the information you submitted and we have considered the issues you raise.

You inform us, and our review of the submitted information confirms, the University Park Police Department (the "Department") requests this videotape for its use in an internal affairs investigation of the named officer. If the requestor is acting in an official capacity on behalf of the Department, then the District Attorney has the discretion to release the information pursuant to an intergovernmental transfer. We ruled in Open Records Decision No. 661 (1999) that whether a governmental entity may release information to another governmental entity is not a question under the Public Information Act (the "Act") as the Act is concerned with the required release of information to the *public*. Gov't Code §§ 552.001, .002, .021; *see* Attorney General Opinions, H-683 (1975), H-242 (1974), M-713 (1970); Open Records Decision No. 655 (1997). Further, this office has concluded that information subject to the Act may be transferred between governmental bodies without waiving exceptions to the public disclosure of that information or affecting its confidentiality. *See* Attorney General Opinion JM-590 (1986); Open Records Decision Nos. 655 (1997), 567 (1990), 561 (1990), 516 (1989). These decisions are based on the well-settled policy of this state that governmental agencies should cooperate with each other in the interest of the efficient and economical administration of their statutory duties. *See* Open Records Decision No. 516

(1989). Thus, the release of information by one agency to another agency is not a release to the public for the purposes of section 552.007 of the Government Code, which prohibits the selective disclosure of information, or for those of section 552.352, which provides criminal penalties for the release of information that is considered to be confidential. *Id.* Therefore, the District Attorney may release the videotape to the Department without waiving future claims of exception to public disclosure. However, should you decline to exercise that discretion, we will address your arguments.

Section 552.108 states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). You inform us the submitted videotape pertains to a pending prosecution. Therefore, we believe the release of this information "would interfere with the detection, investigation, or prosecution of crime." *Id.* Thus, the District Attorney may withhold the videotape based on section 552.108 of the Government Code. The District Attorney has the discretion to release all or part of the information that is not otherwise confidential by law. Gov't Code § 552.007.

In summary, the District Attorney may release the videotape to the University Park Police Department based on the doctrine of intergovernmental transfer. Otherwise, the District Attorney may withhold the videotape under subsection 552.108(a)(1) of the Government Code. As section 552.108 is dispositive, we need not address your other claimed exception.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records

will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Christen Sorrell  
Assistant Attorney General  
Open Records Division

CHS/seg

Ref: ID# 178459

Enc: Submitted documents

c: Mr. E. L. Holman  
Captain of Police  
City of University Park  
3800 University Boulevard  
University Park, Texas 75205-1711  
(w/o enclosures)