



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 2, 2007

Lieutenant David Hawley
Administrative Lieutenant
Grayson County
200 South Crockett Street
Sherman, Texas 75090

OR2007-08332

Dear Lieutenant Hawley:

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# 282872.

The Grayson County Sheriff's Office (the "sheriff") received a request for "any and all scene diagrams and photographs completed" in a specified investigation. You inform us that the sheriff does not have possession or access to the requested information because it is in the "care, custody and control" of the Grayson County District Attorney's Office (the "district attorney's office"). We have considered the argument you claim.

Section 552.002(a) of the Government Code defines "public information" as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Gov't Code § 552.002(a). You state that sheriff no longer has the requested information. Ordinarily, a governmental body is not required to obtain information not in its possession. *See* Open Records Decision No. 518 (1990). However, information in the possession of another entity may nevertheless be subject to the Public Information Act (the "Act") if the entity holds the information for the governmental body or if the governmental body owns the information or has a right of access to the information. *See* Gov't Code § 552.002(a). You state that the "Grayson County District Attorney's Office has 'care, custody and control of all records in questioned [sic].'" You also state that the sheriff does not have the requested

records in its possession nor does it have access to the requested records. You also received a representation from the district attorney's office that the sheriff does not have access to the requested information in the custody and control of the district attorney's office. Based upon our review and your representations, we find that the Act does not require the sheriff to produce the requested information to the requestor.

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).

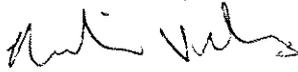
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/jb

Ref: ID# 282872

Enc. Submitted documents

c: Ms. Linda Sikes
Brown & Sikes, Inc.
325 North Saint Paul Street, Suite 1280
Dallas, Texas 75201
(w/o enclosures)