



September 22, 1999

Ms. Judy Ponder
General Counsel
General Services Commission
P.O. Box 13047
Austin, Texas 78711-3047

OR99-2647

Dear Ms. Ponder:

You have asked 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# 127595.

The General Service Commission (the "GSC") received five requests for "bid information, including the technical data, relating to the purchase of electronic surveillance equipment." In response to the request, you submit to this office for review a representative sample of the information which you assert is responsive. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception and arguments you raise, and have reviewed the information submitted.

Section 552.108 of the Government Code excepts from required public disclosure

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

Gov't Code § 552.108(b). Our office has held that information related to specific operations or specialized equipment directly related to investigation or detection of crime may be excepted from public disclosure under section 552.108(b) of Government Code. Open Records Decision No. 531 at 2 (1989). Specifically, descriptions of specific electronic surveillance equipment are excepted by section 552.108(b). Open Records Decision No. 143 (1976). The purpose of the exception is protect the investigative techniques and procedures used in law enforcement. *Id.* at 2.

You assert that “a confidential procurement is necessary, because disclosure will undermine the operational effectiveness of the equipment.” The Department of Public Safety (the “department”) also states that disclosure of the fact that it is purchasing and will own this equipment would compromise its investigative efforts. Based on the circumstances presented here, you have shown how some of the requested information may undermine the clandestine nature of the department’s law enforcement techniques or strategies. Accordingly, we have marked the information that you may withhold under section 552.108(b).¹ You must release the remaining information, because you have not shown that disclosing it will hinder law enforcement efforts. *See* Open Records Decision No. 553 at 7 (1990) (cost figures of electronic surveillance equipment related only to cost of using and monitoring equipment).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH\nc

Ref: ID# 127595

Encl: Submitted documents

cc: Mr. Troy DeForrest
Nationwide Security District
1011 Lake St., Suite 314
Oak Park, Illinois 60301
(w/o enclosures)

¹Records which otherwise qualify for protection from disclosure under section 552.108 do not necessarily lose that status while in the custody of an agency not directly involved in law enforcement. Open Record Decision 272 (1981); *see also* Open Records Decision No. 474 at 4-5 (1987) (section 552.108 may be invoked by proper custodian of information).

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