



February 29, 2000

Mr. Doug Lowe  
Criminal District Attorney  
Anderson County, Texas  
500 N. Church  
Palestine Texas 75801

OR2000-0742

Dear Mr. Lowe

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 132594.

Anderson County, (the "county") which you represent, received a request for information related to the purchase and installation of security cameras at the county courthouse. You have supplied the following responsive information to this office for review: (1) Purchase Order number 15170, (2) Invoice number 19252, (3) Invoice number 140, (4) itemized list of materials, dated 11/11/99, (5) installation proposal, dated November 11, 1999 and (6) a representative tape recording.<sup>1</sup> You contend that this information is excepted from public disclosure under sections 552.101 and 552.108 of the Government Code. You have asked several specific questions, however, this decision is limited to the application of the exceptions raised to the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You relate that "the sensitivity" of the subject information is evidenced by section 551.076 of the Government Code. This section exempts a governmental body from the requirement of holding an open meeting, when the subject deliberated is "the deployment, or specific occasions for implementation, of security personnel or devices." Gov't Code § 551.076. Governmental bodies are

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<sup>1</sup>We assume that the representative sample submitted to this office is truly representative of the requested tapes as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

thereby authorized to conduct such deliberations in executive meetings. Records of such meetings must be kept in the form of a tape recording or certified agenda. Gov't Code § 551.103. These records are available for public inspection only under court order. Gov't Code § 551.104(c). However, the fact that a subject was discussed in an executive meeting does not make information related to that discussion confidential. Open Records Decision No. 485 (1987). We conclude that, for public information purposes, Government Code section 551.176 is not a confidentiality provision and that the submitted information is not confidential. The responsive information may therefore not be withheld under section 552.101 of the Government Code.

The 76<sup>th</sup> Legislature amended section 552.022 of the Government Code to provide several categories of information that are not excepted from required disclosure unless they “are expressly confidential under other law.” In pertinent part this section now reads

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body

...

(5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate;

Information in these categories is therefore not subject to the discretionary exceptions enumerated in Chapter 552 of the Government Code. From our review of the submitted information we conclude that Purchase Order number 15170, Invoice number 19252, and Invoice number 140, are made public by section 552.022(a)(3) of the Government Code and that the itemized list of materials dated 11/11/99, and the installation proposal dated November 11, 1999 are made public by section 552.022(a)(5) of the Government Code. This information must be released.

You also raise section 552.108 of the Government Code. This section provides in pertinent part

(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 is excepted from the requirements of Section 552.021 if:

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

When section 552.108(b) is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how releasing the information would interfere with law enforcement. Open Records Decision No. 434 at 3 (1986). You assert that the subject tapes are monitored by sheriff's department employees as part of their duties implementing programs for the detection, prevention and prosecution of criminal activities. You further assert that release of these tapes would undermine the effectiveness of those programs by revealing areas that are not monitored. We conclude that you have demonstrated that release of the subject tapes would interfere with law enforcement or prosecution. The tapes may therefore be withheld.

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 Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



Michael Jay Burns  
Assistant Attorney General  
Open Records Division

MJB/nc

Ref: ID# 132594

Encl. Submitted documents

cc: Mr. Jerry D. Moore  
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