



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 20, 1998

Mr. John Steiner  
Division Chief  
Law Department  
City of Austin  
P.O. Box 1546  
Austin, Texas 78767-1546

OR98-1276

Dear Mr. Steiner:

You ask this office to reconsider our ruling in Open Records Letter No. 98-0804 (1998). Your request for reconsideration was assigned ID# 116118.

The City of Austin Police Department (the "city") received a request for a copy of a specific incident report. The city first requested a ruling from this office in a letter dated January 20, 1998. You argued that sections 552.103 and 552.108 excepted from required public disclosure documents that you concluded were responsive to the request. You submitted the first set of responsive documents with a letter dated January 23, 1998. You submitted another letter dated February 27, 1998, referencing our identification number and raising additional exceptions to disclosure, specifically sections 552.101, 552.107, and 552.130, for a second set of documents attached to that letter. In Open Records Letter No. 98-0804 (1998), this office concluded that the city could only withhold certain information under sections 552.101 and 552.130 of the Government Code. We further concluded that the city had not timely raised section 552.107, and assumed that the city withdrew the exceptions claimed for the first set of documents submitted on January 23. We based our assumption on your statement in the February 27 letter that the "City has released all but the marked portions of the report, for which portions the city seeks your determination."

In your request for reconsideration, you explain that the city did not withdraw the exceptions raised for the first set of documents submitted for our review. You explain that the city was submitting additional responsive documents with the February 27 letter, and raising additional exceptions for that second set of documents. Thus, you explain that your statement regarding the release of all but the marked information only applied to the second set of documents and not to the first. As you have now clarified the city's position with respect to the first set of documents, we now address your arguments regarding the applicability of sections 552.103 and 552.108 to the first set of documents.

Section 552.108(a)(1) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime.” You state that the requested information “pertains to an open, pending criminal investigation.” Based upon your representation that the investigation is ongoing, we agree that much of the requested information may be withheld under section 552.108(a)(1).<sup>1</sup> We understand that the city has already released front page information pursuant to section 552.108(c) and *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), as well as all but the marked information in the second set of documents. Open Records Letter No. 98-0804 (1998) is overruled only to the extent it conflicts with this ruling.

If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Deputy Chief  
Open Records Division

LRD/rho

Ref.: ID# 116118

Enclosures: Submitted documents

cc: Mr. John C. Goeth  
TIPS Iron & Steel Company  
300 Baylor Street  
Austin, Texas 78703  
(w/o enclosures)

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<sup>1</sup>Because we conclude that section 552.108 applies to this request, we do not address your arguments for withholding the information under section 552.103.