



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 9, 1998

Ms. Susan A. Spataro, CPA, CMA
County Auditor, Travis County
Travis County Administration Building
P.O. Box 1748
Austin, Texas 78767

OR98-3021

Dear Ms. Spataro:

You ask this office to reconsider the portion of our decision in Open Records Letter No. 98-1631 (1998) that determined that the Travis County Auditor (the "Auditor") may not withhold exhibit A of the Auditor's submissions based on section 552.108 of the Government Code. Your request for reconsideration was assigned ID# 120276.

Exhibit A, you inform us, consists of the work papers of an ongoing audit of the Travis County Clerk's Office. Open Records Letter No. 98-1631 found section 552.108 inapplicable because, first, none of the information was of the type of information the court in *A & T Consultants, Inc. v. Sharp*, 904 S.W.2d 668 (Tex. 1995) held to be excepted from disclosure under section 552.108 and second, this office found that the Auditor had not explained how the release of the information would interfere with law enforcement. You now ask that we consider Exhibit A as a class of documents that should be withheld in their entirety under section 552.108 in the same way that section 552.116 excepts from disclosure the audit working papers of the state auditor in their entirety. You argue that to apply section 552.108 to the auditor's working papers in the way you propose would remove the current anomaly of protecting the efforts of the state auditor, but not those of the county auditor.

The Open Records Act requires a governmental body that seeks to withhold requested information from disclosure to timely raise exceptions. Gov't Code 552.301; .303. An exception untimely made will protect information from disclosure only if the governmental body presents a compelling reason to withhold the information. Open Records Decision No. 515 (1988). A compelling reason exists if the information is made confidential by law or if the release of the information implicates the interests of a third party. Open Records Decision No. 150 (1977).

The auditor has not provided a compelling reason to overcome the presumption of openness. Moreover, the proposed extension of section 552.108 to cover the auditor's working papers in their entirety, regardless of whether the release of the information interferes with the auditor's law enforcement interests, is insupportable by the plain language of section 552.108 and the supreme court's interpretation of section 552.108 in *A & T Consultants*. We therefore affirm Open Records Letter No. 98-1631.

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Deputy Chief
Open Records Division

KHH/ch

Ref.: ID# 120276

Enclosures: Submitted documents

cc: Mr. C. M. Schauerte
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Austin, Texas 78759
(w/o enclosures)