



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 8, 2010

Ms. Dahlia Salinas
Records Interim Supervisor
Edinburg Police Department
1702 South Closner Boulevard
Edinburg, Texas 78539-7070

OR2010-01890

Dear Ms. Salinas:

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# 369721 (Reference # 5306).

The Edinburg Police Department (the "department") received a request for information relating to a specified case number. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

Section 552.108 of the Government Code 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." Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex.1977). You have marked the information the department seeks to withhold under section 552.108. You state that release of the information at issue would interfere with the detection or investigation of a crime. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the marked information. *See Houston Chronicle Publ'g 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) (court delineates law enforcement interests that are present in active cases).

We note that section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle* and includes a detailed description of the offense. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976). The department must release basic information, even if the information does not literally appear on the front page of an offense or arrest report. *See* ORD 127 at 3-4 (summarizing types of information deemed public in *Houston Chronicle*). Except for basic information, the marked information may generally be withheld under section 552.108(a)(1).

We also note, however, that the requestor is a representative of the Edinburg Housing Authority (the “housing authority”) who appears to be seeking access to information concerning a tenant of the housing authority. The Texas Department of Public Safety (the “DPS”) is required to provide criminal history record information (“CHRI”) to a noncriminal justice agency that is authorized to receive CHRI pursuant to a federal statute, executive order or state statute. *See* Gov’t Code § 411.083(b)(2). In Open Records Decision No. 655 (1997), this office concluded that a local housing authority is a noncriminal justice agency authorized by federal statute to receive CHRI. *See* Open Records Decision No. 655 at 4 (1997). The federal Housing Opportunity Program Extension Act of 1996 authorizes housing authorities to obtain criminal records of applicants and tenants. Section 1437d(q)(1)(A) of chapter 42 of the United States Code provides that “the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to public housing agencies regarding the criminal conviction records of adult applicants for, or tenants of, public housing for purposes of applicant screening, lease enforcement, and eviction.” 42 U.S.C. § 1437d(q)(1)(A). Pursuant to section 411.087 of the Government Code, an agency that is entitled to obtain CHRI from the DPS also is authorized to “obtain from any other criminal justice agency in this state [CHRI] maintained by that [agency].” Gov’t Code § 411.087(a)(2). Thus, a housing authority also is authorized to obtain CHRI from a local criminal justice agency such as the department. *See* ORD 655 at 4; *see also* Gov’t Code §§ 411.083(b)(2), 411.087(a). CHRI consists of “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *Id.* § 411.082(2).

However, federal law limits the purposes for which a housing authority may request CHRI. Federal law provides that (1) public housing agencies may receive CHRI for adult applicants for public housing or for adult tenants of public housing, and (2) CHRI may only be used for purposes of applicant screening, lease enforcement, and eviction. *See* 42 U.S.C. § 1437d(q)(1)(A). Although the requestor represents the housing authority and appears to be seeking information concerning a tenant, we are unable to determine whether the requestor is seeking access to a tenant’s CHRI for purposes of lease enforcement or eviction.

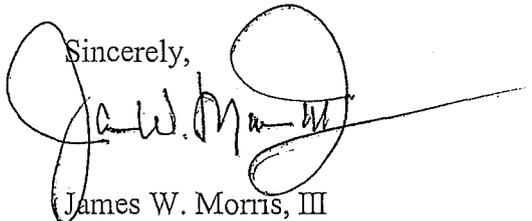
Nevertheless, we conclude that if the submitted information is related to a tenant of the housing authority, and if the department determines that the requestor intends to use the

CHRI for purposes of lease enforcement or eviction, then the department must release information to this requestor that shows the types of allegations made and whether there were arrests, informations, indictments, detentions, convictions, or other formal charges and their dispositions. In the event that CHRI must be released, the department may withhold the rest of the information you have marked under section 552.108(a)(1) of the Government Code, except for the basic information that must be released under section 552.108(c). If the department determines that the submitted information is not related to a tenant of the housing authority or that the housing authority does not intend to use the CHRI for purposes of lease enforcement or eviction, then the department may withhold all of the marked information, including any CHRI, under section 552.108(a)(1), except for basic information under section 552.108(c). In either event, the rest of the submitted information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is written in a cursive style with a long horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

Ref: ID# 369721

Enc: Submitted documents

c: Requestor
(w/o enclosures)