



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 23, 2010

Mr. Jose Hernandez  
Records Clerk  
Edinburg Police Department  
1702 South Closner Boulevard  
Edinburg, Texas 78539

OR2010-11033

Dear Mr. Hernandez:

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# 387819 (Reference ID# 10213).

The Edinburg Police Department (the "department") received a request for a specified incident report. You claim portions of the submitted information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108, .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You indicate the information at issue relates to a pending criminal investigation. Based on your representation and our review, we conclude section 552.108(a)(1) is applicable to the information at issue. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14<sup>th</sup> 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).

However, we note basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Such basic, front-page information refers to the information held to be public in *Houston Chronicle*, and includes, among other items, a detailed description of the offense. See 531 S.W.2d at 186-88; see also Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note you have marked the entire narrative portion of the submitted report as information you seek to withhold under section 552.108. However, the remaining portions of the report do not contain information sufficient to satisfy the requirement that a "detailed description of the offense" be released as basic information. See ORD 127. Accordingly, we determine the department must release a sufficient portion of the narrative section of the submitted report to encompass a detailed description of the offense to satisfy the required release of basic information pursuant to *Houston Chronicle*. The department may withhold the remaining marked information under section 552.108(a)(1) of the Government Code.

You claim portions of the remaining information are subject to section 552.130 of the Government Code, which excepts from disclosure information relating to a motor vehicle operator's license or driver's license issued by a Texas agency. Gov't Code § 552.130(a)(1). We note section 552.130 does not make information regarding the state of issuance confidential because in order for section 552.130 to be applicable, the motor vehicle information must be issued by an agency of the State of Texas. Additionally, we note this exception protects personal privacy. A person has a special right of access to private information concerning himself under section 552.023 of the Government Code. See *id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or his authorized representative requests information concerning individual). The information you seek to withhold under section 552.130 constitutes the requestor's own driver's license information. Thus, pursuant to section 552.023, the department may not withhold the marked information from this requestor under section 552.130.

We also note 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 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 "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 is also 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.” Gov’t Code § 411.082(2).

However, federal law limits the purposes for which a housing authority may request CHRI. Federal law provides (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 if the submitted information is related to a tenant of the housing authority, and if the department determines 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 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 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 remaining submitted information must be released.<sup>1</sup>

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.

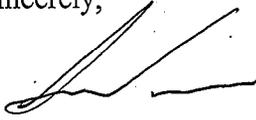
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php),

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<sup>1</sup>Because the requestor has a special right of access to information that would ordinarily be confidential, the department must again seek a decision from this office if it receives another request for the same information from a different requestor.

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 387819

Enc. Submitted documents

c: Requestor  
(w/o enclosures)