



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 28, 2010

Ms. Jessica Sangsvang
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2010-14738

Dear Ms. Sangsvang:

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# 395522 (Fort Worth Request No. W002317).

The City of Fort Worth (the "city") received a request for offense report number 10071200. You state the city has redacted social security numbers pursuant to section 552.147 of the Government Code.¹ You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception 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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

conduct. Open Records Decision Nos. 474 at 4-5 (1987), 372 (1983). You provide an affidavit from the Tarrant County District Attorney's Office stating the crime at issue in report number 10071200 is currently pending prosecution with that office, and that release of the submitted report at this time would unduly interfere with that criminal case. Based on this representation, we determine release of most of the submitted information at this time would interfere with the detection, investigation, or prosecution of crime. *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). Thus, section 552.108(a)(1) is applicable to submitted report. However, 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*).

In this instance, however, the requestor is a representative of the Fort Worth Housing Authority (the "housing authority"). The Texas Department of Public Safety ("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* ORD 655 at 4. 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 title 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 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 city's police 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).

Federal law, however, 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 states she seeks information concerning tenants, we are unable to determine whether or not the requestor is seeking access to a tenant's CHRI for purposes of lease enforcement or eviction. Therefore, if the city determines the requestor intends to use the CHRI for purposes of lease enforcement or eviction, the city 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 such case, with the exception of basic information that must be released, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code. However, if the city determines the housing authority does not intend to use the CHRI for purposes of lease enforcement or eviction, then, with the exception of basic information that must be released, the city may withhold report number 10071200 under section 552.108(a)(1) of the Government Code.

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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/tp

Ref: ID# 395522

Enc. Submitted documents

c: Requestor
(w/o enclosures)