



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 17, 2022

Mr. Samuel R. Jimison  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2022-24482

Dear Mr. Jimison:

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# 966338 (ORR#: CAut1 & WKoh8).

The Corpus Christi Police Department (the "department") received two requests for information pertaining to a specified incident. The department claims some of the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.108(a) 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: (1) 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(a)(1) must explain how and why the release of the information at issue 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, 710 (Tex. 1977). The department states the information it has marked relates to a pending criminal investigation or prosecution. Based on this representation, we conclude the release of this information 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the department may generally withhold the information it has marked under section 552.108(a)(1) of the Government Code.

However, the requestors assert they are representatives of the Corpus Christi 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 id.* § 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 is also 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), .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).

Federal law limits the purposes for which a public 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. 42 U.S.C. § 1437d(q)(1)(A). Section 1437d(q)(1)(A) states a housing authority shall be provided access to the CHRI “[n]otwithstanding any other provision of law.” *Id.* Based on this language, we conclude section 1437d(q)(1)(A) prevails over section 552.108 of the Government Code. *Cf. Equal Employment Opportunity Comm’n v. City of Orange, Texas*, 905 F. Supp. 381, 382 (E.D. Tex. 1995) (federal law prevails over inconsistent provision of state law).

The requestors do not state whether the requested information will be used for purposes of applicant screening, lease enforcement, or eviction. A statutory right of access prevails over the Act’s general exceptions to public disclosure, including section 552.108 of the Government Code. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Accordingly, if the department determines the submitted information will be used for purposes of applicant screening, lease enforcement, or eviction, then the department must release any CHRI of applicants or tenants of public housing in accordance with section 1437d(q)(1) of chapter 42 of the United States Code, but may withhold the remaining information it has marked under section 552.108(a)(1) of the Government Code. *See* 24 C.F.R. § 5.903 (describing public housing authorities’ access to criminal records). If the

department determines the information will not be used for purposes of applicant screening, lease enforcement, or eviction, then the department may withhold the information it has marked under section 552.108(a)(1) of the Government Code. The department must release the remaining information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Amy Shipp  
Assistant Attorney General  
Open Records Division

ALS/jxd

Ref: ID# 966338

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)