



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 29, 2011

Ms Linda Hight
Records Coordinator
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033

OR2011-14149

Dear Ms. Hight:

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# 435973.

The City of Cleburne (the "city") received a request for information pertaining to a specified case. You state the city has released some of the responsive information. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 560.003 of the Government Code, which provides that "[a] biometric identifier in the possession of a governmental body is exempt from disclosure under [the Act]." *Id.* § 560.003; *see also id.* §§ 560.001(1) (defining "biometric identifier" to include fingerprints), .002(1)(A) (governmental body may not sell, lease, or otherwise disclose individual's biometric identifier to another person unless individual consents to disclosure). Therefore, the city withhold the thumbprint you have marked in Exhibit 3 under section 552.101 in conjunction with section 560.003 of the Government Code.

You claim the suspect information in Exhibit 2 is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You explain the information at issue pertains to a criminal investigation where no charges were filed by the Cleburne Police Department. Based on these representations and our review, we agree section 552.108(a)(2) is applicable to the information at issue. Therefore, the city may withhold the suspect information you have marked in Exhibit 2 under section 552.108(a)(2).

You claim portions of the information in Exhibits 2, 3, and 4 are subject to section 552.130 of the Government Code. Section 552.130 provides that information relating to a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(2)). The city must withhold the information you have marked, as well as the additional information we have marked, in Exhibits 2, 3, and 4 under section 552.130.¹

In summary, the city must withhold the thumbprint you have marked in Exhibit 3 under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code. The city may withhold the suspect information you have marked in Exhibit 2 under section 552.108 of the Government Code. The city must withhold the information you have marked, as well as the additional information we have marked, in Exhibits 2, 3, and 4 under section 552.130 of the Government Code. The city must release the remaining information.²

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.

¹We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

²We note the information being released contains social security numbers. Section 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).

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 cursive script that reads "Tamara H. Holland".

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/akg

Ref: ID# 435973

Enc. Submitted documents

c: Requestor
(w/o enclosures)