



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 29, 2017

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

OR2017-14555

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# 664257.

The City of Cleburne (the "city") received a request for all police reports pertaining to specified addresses during a certain time period. You inform us the city has released some information. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.*; *see also id.* § 552.301(e)(1)(A). You state no criminal charges were filed. You also state the information at issue pertains to a concluded criminal case that did not result in conviction or deferred adjudication. Based on your representations, we find section 552.108(a)(2) is applicable to the information at issue. Accordingly, the city may withhold the information you have marked under section 552.108(a)(2) of the Government Code.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate or embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Further, the Third Court of Appeals has concluded public citizens’ dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at \*3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). We note one of the submitted dates of birth pertains to an individual who will be de-identified. Thus, this individual’s privacy interests will be protected and the city may not withhold this individual’s date of birth under section 552.101 of the Government Code on that basis. Upon review, we find you have not demonstrated some of the information you have marked is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the city may not withhold this information, which we have marked for release, under section 552.101 in conjunction with common-law privacy. Nevertheless, upon review, we find the remaining information you have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, except for the information we have marked for release and the date of birth pertaining to the individual that will be de-identified, the city must withhold all public citizens’ dates of birth, as well as the information you have marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city may withhold the information you have marked under section 552.108(a)(2) of the Government Code. Except for the information we have marked for release and the date of birth pertaining to the individual that will be de-identified, the city must withhold all public citizens’ dates of birth and the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city 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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Cole Hutchison". The signature is written in a cursive style with a large initial "C".

Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/sb

Ref: ID# 664257

Enc. Submitted documents

c: Requestor  
(w/o enclosures)