



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 3, 2016

Ms. A. Feliz Abalos  
Police Legal Advisor  
Senior Assistant City Attorney  
City of Odessa  
P.O. Box 4398  
Odessa, Texas 79761-4398

OR2016-24487

Dear Ms. Abalos:

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# 639526.

The Odessa Police Department (the "department") received a request for a specified police report pertaining to two named individuals. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 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

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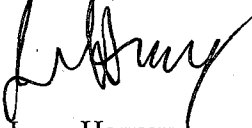
<sup>1</sup>We note the department did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

demonstrated. *See id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Upon review, we find the submitted information contains information that is considered highly intimate or embarrassing and is not of legitimate concern to the public. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, the entire report must be withheld to protect the individual's privacy. In this instance, withholding only the individual's identity or certain details of the report from this requestor would not preserve the individual's common-law right of privacy. Therefore, we conclude the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

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,



Jesse Harvey  
Assistant Attorney General  
Open Records Division

JH/bw

Ref: ID# 639526

Enc. Submitted documents

c: Requestor  
(w/o enclosures)