



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 14, 2019

Ms. Judy Hickman  
Assistant Supervisor  
Beaumont Police Department  
P.O. Box 3827  
Beaumont, Texas 77704

OR2019-12936

Dear Ms. Hickman:

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# 765316.

The Beaumont Police Department (the "department") received a request for information pertaining to a specified incident. You state the department has released most of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.1085, and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

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<sup>1</sup>We note the department failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b) (requiring governmental body to ask for ruling and state exceptions that apply within ten business days of receiving written request), (e) (requiring governmental body to submit within fifteen business days of receiving request for information comments explaining applicability of raised exceptions, copy of request for information, signed statement of date governmental body received request or evidence sufficient to establish date, and copy of information governmental body seeks to withhold or representative samples). Nonetheless, sections 552.101, 552.1085, and 552.130 of the Government Code can provide compelling reasons to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will address the applicability of these exceptions to the submitted information, notwithstanding the department's violation of section 552.301 in requesting this decision.

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 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. You claim common-law privacy for one of the submitted photographs. Upon review, we find you have failed to demonstrate the information at issue is highly intimate or embarrassing and not of legitimate public concern. Therefore, the department may not withhold the photograph at issue under section 552.101 on that basis.

Section 552.1085 of the Government Code provides, in relevant part, the following:

(c) A sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 and a governmental body may not permit a person to view or copy the image except as provided by this section. This section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

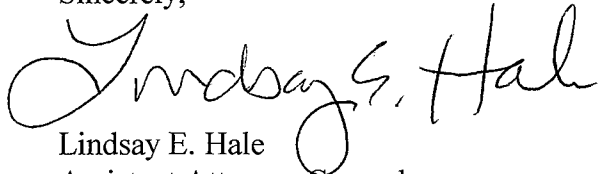
Gov’t Code § 552.1085(c). For purposes of section 552.1085, “sensitive crime scene image” means “a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person’s genitalia.” *See id.* § 552.1085(a)(6). You assert some of the submitted photographs consist of sensitive crime scene images. Upon our review, however, we find none of the photographs consist of sensitive crime scene images for the purposes of section 552.1085. Accordingly, the department may not withhold the submitted photographs under section 552.1085(c).

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s or driver’s license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. *Id.* § 552.130(a). Upon review, we find the submitted photographs include license plates that are subject to section 552.130. You state the department does not have the technological capability to redact information from the photographs. We note, however, the photographs may be printed, which would make it possible for the department to redact confidential information by marking out the information on the printed photographs. Therefore, the photographs at issue may not be withheld in their entireties under section 552.130. Accordingly, the department must withhold the license plates in the submitted photographs under section 552.130 of the Government Code and must release the remaining portions of the photographs. As no further exceptions to disclosure have been raised, 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 [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 "Lindsay E. Hale". The signature is written in a cursive, flowing style.

Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/gw

Ref: ID# 765316

Enc. Submitted documents

c: Requestor  
(w/o enclosures)