ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 8, 2006

Ms. Sandra Gillick
Administrative Support II
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2006-13260

Dear Ms Sandra Gillick:

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# 264153.

The Baytown Police Department (the "department") received a request for a particular police report. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses confidentiality provisions such as section 261.201(a) of the Family Code, which provides as follows:

> (a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:
>
> > (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

> (2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). The report you have submitted involves an allegation of trespass and assault between two adults. Further, the report indicates that the child was only involved as a witness to the incident. Accordingly, we find that you have failed to demonstrate that the submitted report is a report of child abuse or neglect, or that it is information used in an investigation under chapter 261 of the Family Code. *See* Fam. Code. §§ 261.001(1), (4) (defining "abuse" and "neglect" for the purposes of chapter 261 of the Family Code). We therefore determine that section 261.201 is not applicable to the submitted report. Thus, the department may not withhold this report under section 552.101 in conjunction with section 261.201 of the Family Code.

We note that the submitted report contains the Texas driver's license number of a person other than the requestor. Section 552.130 of the Government Code excepts from disclosure information that "relates to... a motor vehicle operator's or driver's license or permit issued by an agency of this state." Gov't Code § 552.130. Thus, you must withhold the Texas driver's license number marked in pink under section 552.130 of the Government Code.[1]

We also note that the submitted report contains social security numbers. Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Therefore, the department must withhold the social security numbers marked in green under section 552.147 of the Government Code.[2] As you raise no further exceptions to disclosure for this information and it is not otherwise confidential by law, the remaining information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

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[1] We note that the requestor has a special right of access to her own driver's license number and social security number. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Thus, the requestor's drivers license numbers and social security number must be released.

[2] 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.

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

Justin D. Gordon
Assistant Attorney General
Open Records Division

JDG/sdk

Ref: ID# 264153

Enc. Submitted documents

c: Ms. Ray Jean Lewis
1200 Missouri Street #323
Baytown, Texas 77520
(w/o enclosures)