



March 22, 2002

Ms. Sara Hartin
Assistant City Attorney
City of Killeen
101 North College
Killeen, Texas 76541

OR2002-1423

Dear Ms. Hartin:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 160188.

The City of Killeen (the "city") received a request for a copy of a specific animal bite report. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with sections 826.0211, 826.0311, and 826.041 of the Health and Safety 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 information protected by other statutes. You contend that the highlighted information in Exhibit C is confidential pursuant to section 826.0211 of the Health and Safety Code. This provision makes confidential "[i]nformation that is contained in a rabies vaccination certificate that identifies or tends to identify the owner or an address, telephone number, or other personally identifying information of the owner of the vaccinated animal." You argue that this provision applies to the animal bite report in Exhibit C because the information in the submitted report is "identical confidential information" contained on the rabies vaccination certificate. Exhibit C, however, is not itself a rabies vaccination certificate, nor has the requestor requested a copy of the certificate. We do not believe that section 826.0211 applies to a record other than a rabies vaccination certificate as stated in the plain language of the provision. Accordingly, we conclude that the highlighted information contained in Exhibit C is not made confidential by section 826.0211 of the Health and Safety Code and thus may not be withheld under section 552.101 of the Government Code on that basis.

Section 826.0311 of the Health and Safety Code specifically provides:

(a) Information that is contained in a municipal or county registry of dogs and cats under Section 826.031 that identifies or tends to identify the owner or an address, telephone number, or other personally identifying information of the owner of the registered dog or cat is confidential and not subject to disclosure under Chapter 552, Government Code.

(b) The information may be disclosed only to a governmental entity for purposes related to the protection of public health and safety. A governmental entity that receives the information must maintain the confidentiality of the information, may not disclose the information under Chapter 552, Government Code, and may not use the information for a purpose that does not directly relate to the protection of public health and safety.

(c) A person commits an offense if the person distributes information that is confidential under this section. An offense under this subsection is a misdemeanor punishable by:

(1) a fine of not more than \$1,000;

(2) confinement in the county jail for not more than 180 days; or

(3) both the fine and confinement.

You argue that this provision applies to the animal bite report in Exhibit C because the information in the submitted report is "identical confidential information" contained in a municipal registry of dogs and cats under Section 826.031. Exhibit C, however, is not such a registry and the requestor has not requested a copy of the registry. We do not believe that section 826.0311 applies to a record other than a municipal registry of dogs and cats as stated in the plain language of the provision. Accordingly, we conclude that the highlighted information contained in Exhibit C is not made confidential by section 826.0311 of the Health and Safety Code and thus may not be withheld under section 552.101 of the Government Code on that basis.

Section 826.041(b) of the Health and Safety Code, which governs reports of animal bites, specifically provides:

(b) The report must include:

(1) the name and address of the victim and of the animal's owner, if known; and

(2) any other information that may help in locating the victim or animal.

You argue that any additional information contained in the animal bite report beyond what is required by section 826.041 is confidential information. However, section 552.101 protects information that is deemed to be confidential under other law. *See* Open Records Decision Nos. 611 at 1 (1992) (common law privacy), 600 at 4 (1992) (constitutional privacy), 478 at 2 (1987) (statutory confidentiality). We find that section 826.041(b) of the Health and Safety Code is not a statute that expressly makes information confidential and is, therefore, not "other law" that makes the submitted information confidential. Accordingly, we conclude that the highlighted information contained in Exhibit C is not made confidential by section 826.041 of the Health and Safety Code and thus may not be withheld under section 552.101 of the Government Code on that basis.

We note that a social security number is excepted from required public disclosure under section 552.101 of the Government Code in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), *if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990*. *See* Open Records Decision No. 622 (1994). It is not apparent to us that the social security number contained in the report at issue was obtained or is maintained by the city pursuant to any provision of law enacted on or after October 1, 1990. You have cited no law, nor are we aware of any law, enacted on or after October 1, 1990, that authorizes the city to obtain or maintain a social security number. Therefore, we have no basis for concluding that the social security number at issue was obtained or is maintained pursuant to such a statute and is, therefore, confidential under section 405(c)(2)(C)(viii)(I). We caution the city, however, that section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Prior to releasing any social security number, the city should ensure that the numbers were not obtained or maintained by the city pursuant to any provision of law enacted on or after October 1, 1990.

In summary, we find that except for a social security number that may be excepted from required public disclosure under section 552.101 of the Government Code, the city must release the information in Exhibit C.

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 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).

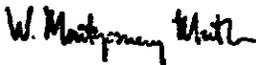
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 Department of Public 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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



W. Montgomery Meitler
Assistant Attorney General
Open Records Division

WMM/sdk

Ref: ID# 160188

Enc: Submitted documents

c: Ms. Maria A. Kaar
610 Skyline Avenue
Killeen, Texas 76541
(w/o enclosures)