



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 6, 2006

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P. O. Box 850137
Mesquite, Texas 75185-0137

OR2006-05868

Dear Ms. Graham:

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# 251222.

The City of Mesquite (the "city") received a request for a specified animal control report. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted animal bite report.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information made confidential by other statutes. Section 826.0211 of the Health and Safety Code provides in pertinent part that "[i]nformation contained in a rabies vaccination certificate or in any record compiled from the information contained in one or more certificates that identifies or tends to identify an owner or an address, telephone number, or other personally identifying information of an owner of a vaccinated animal is confidential and not subject to disclosure under Chapter 552, Government Code." Health & Safety Code § 826.0211(a). The only exception to this confidentiality is that the information may be disclosed "to a governmental entity for purposes related to the protection of public health and safety." *Id.* § 826.0211(b). You indicate that this statutory provision applies to portions of the submitted animal bite report that are identical to the information contained in a rabies vaccination certificate. We note, however, that the animal bite report is not itself a rabies vaccination certificate.

Further, the information at issue was not compiled from one or more rabies vaccination certificates. Thus, section 826.0211 of the Health and Safety Code is not applicable to any portion of the submitted bite report. Accordingly, we conclude that the city may not withhold any of the bite report under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code. *See* Open Records Decision Nos. 649 at 3 (1996) (language of confidentiality provision controls scope of protection), 478 at 2 (1987) (statutory confidentiality requires express language making information confidential or stating that information shall not be released to public). As you raise no other exceptions to disclosure, the city must release the bite report in its entirety to the requestor.

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, 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,

A handwritten signature in black ink, appearing to read "Candice M. De La Garza". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Candice M. De La Garza
Assistant Attorney General
Open Records Division

CMD/krl

Ref: ID# 251222

Enc. Submitted documents

c: Ms. Gene Curry
Ferrer, Poirot, & Wansbrough
2603 Oak Lawn Avenue, #300
Dallas, Texas 75219
(w/o enclosures)