



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 27, 2020

Ms. Linda Pemberton  
Paralegal  
City of Killeen  
P.O. Box 1329  
Killeen, Texas 76540

OR2020-02384

Dear Ms. Pemberton:

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# 808235 (ORR# W030421).

The Killeen Police Department (the "department") received a request for information pertaining to a specified animal. The department states it has released some of the requested information, but claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.1177 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

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. This exception encompasses section 826.0211(a) of the Health and Safety Code, which reads as follows:

(a) Information 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 [the Act]. The information contained in the certificate or record may not include the social security number or the driver's license number of the owner of the vaccinated animal.

Health & Safety Code § 826.0211(a). We note section 826.0211 is applicable only to information contained in a rabies vaccination certificate or in a record compiled from information contained in one or more rabies vaccination certificates. Upon review, we find section 826.0211 is applicable to some of the information at issue, which we have marked. Therefore, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 826.0211(a) of the Health and Safety Code. However, the department has failed to demonstrate section 826.0211 is applicable to any of the remaining information. Thus, the department may not withhold any of the remaining information under section 552.101 on that ground.

Section 552.101 of the Government Code also encompasses section 801.353 of the Occupations Code, which provides, in part, the following:

(a) A veterinarian may not violate the confidential relationship between the veterinarian and the veterinarian's client.

...

(f) A veterinarian does not violate this section by providing the name or address of a client, or the rabies vaccination status of a specific client's specific animal, to a public health authority, veterinarian, physician, or other licensed health care professional who requests the identity of the client to obtain information for:

- (1) the verification of a rabies vaccination;
- (2) other treatment involving a life-threatening situation; or
- (3) a public health purpose.

(g) A public health authority that receives information under [s]ubsection (f) shall maintain the confidentiality of the information, may not disclose the information under [the Act] and may not use the information for a purpose that does not directly relate to the protection of public health and safety.

Occ. Code § 801.353(a), (f)-(g). Section 801.353(g) prohibits the public disclosure of information obtained by a public health authority from a veterinarian pursuant to section 801.353(f) for the reasons enumerated in section 801.353(f). Section 801.353 limits a veterinarian's release of information concerning the veterinarian's care of an animal to certain circumstances. *See id.* Upon review, we find the department has failed to demonstrate the remaining information is confidential under section 801.353, and may not withhold any of it under section 552.101 on that ground.

Section 552.101 of the Government Code also 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 and embarrassing by the Texas Supreme Court are delineated in the *Industrial Foundation* decision. *Id.* at 683. Upon review, we find none of the remaining information satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the remaining information is not confidential under common-law privacy, and the department may not withhold it under section 552.101 on that ground.

Section 552.1177(a) of the Government Code relates to the humane disposition by a municipality or county of an animal and provides the following:

Except as provided by Subsection (b), information is confidential and excepted from [required public disclosure] if the information relates to the name, address, telephone number, e-mail address, driver's license number, social security number, or other personally identifying information of a person who obtains ownership or control of an animal from a municipality or county making a humane disposition of the animal under a municipal ordinance or an order of the commissioners court.

Gov't Code § 552.1177(a). The department asserts the information it has marked under section 552.1177 identifies a person who adopted an animal from the department's animal shelter. The department also represents its animal shelter made a humane disposition of the animal at issue under a municipal ordinance. Based on these representations, we find the department must withhold the information we have marked under section 552.1177 of the Government Code. However, the remaining information is not confidential under section 552.117, and the may not withhold it on that ground.

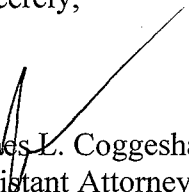
In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 826.0211(a) of the Health and Safety Code. The department must withhold the information we have marked under section 552.1177 of the Government Code. The department must release the remaining information.

Finally, the department asks this office to issue previous determinations permitting it to withhold certain types of information under section 552.101 of the Government Code in conjunction with section 801.353 of the Occupations Code and under section 552.1177 of the Government Code without requesting a ruling from this office. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). However, we decline to do so at this time. Accordingly, 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 more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/be

Ref: ID# 808235

Enc. Submitted documents

c: Requestor  
(w/o enclosures)