



Office of the
Vice President for
Finance and
Administration

April 13, 2006

Mr. Edward Hammond
The Sunshine Project
PO Box 41987
Austin, Texas 78704

Re: **TEXAS PUBLIC INFORMATION ACT**

Dear Mr. Hammond:

This is in response to your request under the Texas Public Information Act dated March 15, 2006, received April 3, 2006, where you requested:

"...Minutes of all meetings of the University of Texas at El Paso Institutional Biosafety Committee (IBC) since 1 May 2003."

This certifies that a true and exact copy of the minutes for the meeting dated August 4, 2003 were provided to you on February 18, 2004 in response to your request dated February 2, 2004. No changes have been made to this document. In accordance with Section 552.232 of the *Texas Government Code*, this portion of your request is redundant and, therefore, the minutes for this meeting will not be released in response to this request.

Minutes for the meetings dated July 21, 2004 and March 7, 2005 are attached.

A copy of the draft minutes for the meeting dated February 10, 2006 have been sent to the Office of the Attorney General for the State of Texas for adjudication. You will be notified when the Attorney General issues an opinion regarding the openness of these documents.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cynthia Vizcaino", is placed below the word "Sincerely".

Cynthia Vizcaino Villa
Vice President

El Paso, Texas
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THE UNIVERSITY OF TEXAS AT EL PASO



Office of Research and
Sponsored Projects

INSTITUTIONAL BIOSAFETY COMMITTEE

Minutes of Meeting
July 21, 2004

Committee Members Present:

Larry P. Jones, Ph.D., Associate Dean, College of Science (Chairman)
Raoul Gonzales, MAJ, VC, DVM, Ph.D., Chief, Biological Research Services
at William Beaumont Army Medical Hospital
Robert Moss, Director, Environmental Health & Safety
Emilio Rodriguez, Biological Safety Officer
Robert Webb, Ph.D., Associate Professor, Biological Sciences

Committee Members Absent:

Pablo Arenaz, Ph.D., Associate Dean, Science & Engineering
William Wade, M.D., retired (Diplomate of the American Board of Surgery)

Guests:

Paul Maxwell, Ph.D., Vice President for Research and Sponsored Projects
April Yancy, DVM, University Veterinarian

I. The University of Texas at El Paso Institutional Biosafety Committee met at 1:34 p.m. in the McNeely Conference Room, Sixth Floor, University Library. Dr. Larry P. Jones called the meeting to order. Members received a copy of the IBC members' roster, minutes of the August 4, 2003 meeting, IBC protocol list, Office of Biotechnology Activities May 14, 2004 letter regarding "Minutes of Institutional Biosafety Committee Meetings", and OBA Web page information. Biological Safety Manager, Emilio Rodriguez present at this meeting. Dr. Arenaz is currently hospitalized. Emilio Rodriguez made a motion, which was seconded by Robert Webb, to approve the minutes as presented. The committee voted unanimously to approve the minutes from August 4, 2003.

II. Dr. Jones indicated that the annual reporting requirement regarding the status of UTEP's IBC research involving recombinant DNA was due before August 13, 2004 to the NIH, "Office of Biotechnology Activities (OBA)" in Washington.

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Ten (10) submitted protocols were reviewed by the committee. Risk assessment based on the Risk Group of an agent and containment protocols was taken into consideration and a vote of "exempt from NIH guidelines on recombinant DNA" was given to five (5) research protocols involving recombinant DNA, three (3) research protocols were voted "non exempt" and two (2) protocols were tabled for further consideration at a subsequent meeting of the IBC. Committee members submitting a protocol abstained from voting on their own protocol (no such protocols received.)

RENEWALS: After the committee discussed each renewal, committee members voted on each renewal protocol separately.

- R 12 Dr. Aguilera: "Molecular Studies on Engulfment-Mediated DNA Degradation"
(5 voted for approval) exempt
- R 11 Dr. Stec: "Towards Global Environmental Remediation Using Unicellular Red Algae"
(5 voted for approval) exempt
- R 10 Dr. Aley: "Molecular Parasitology" (protocol tabled: the IBC determined that this protocol should be divided into a protocol for each separate project)
- R 8 Dr. Bain: "Transport of Pesticides by MRP1 and MRP3"
(5 voted for approval) exempt
- R 7 Dr. Bain: "Examination of Altered Gene Expression in the Mummichog (*Fundulus heteroclitus*) Upon Chronic Exposure to Estuarine Biological Pollutants"
(5 voted for approval) exempt
- R 5 Dr. Baldwin: "Antagonism of the Pregnane X-Receptor May Inhibit Estradiol Metabolism and Elimination Therefore Increasing Estradiol-Mediated Breast Cancer Growth"
(5 voted approval) non-exempt
- R 4 Dr. Das: "Giardia" (5 voted approval) non-exempt
- R 3 Dr. Primm: "Identification of Stationary Phase Genes in *Mycobacterium Fortuitum*"
(5 voted approval) non-exempt
- R 2 Dr. Rael: "Targeting of Snake Venom Toxins to the Tumor Vascular Endothelium"
(5 voted approval) exempt

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NEW Protocol:

R 13 Dr. Aguilera: "Development of Vaccine Vectors and Immunization Strategies to Emerging Diseases"

(protocol tabled: the IBC determined to request that Dr. Aguilera will do the following: clarify all procedures, describe what vectors is he to receive, provide details of the medical surveillance to be afforded the research staff in this protocol and to resubmit this protocol on the appropriate IBC protocol form in order to be considered by the Biosafety Committee at a future meeting)

III. Report from Emilio Rodriguez, Biological Safety Officer. Biological safety cabinets in the Biology Building room B412a, do not meet BSC cabinet certification criteria and are no longer serviceable. EH&S will get a third party contractor to decontaminate and decommission the eight biosafety cabinets. The Biosafety program recommends replacing these cabinets when monies are available in the future.

IV. Discussion: Future Direction/Membership of the IBC. Dr. Jones has been on the IBC for 12 years now and wishes to resign the chairmanship effective as soon as a new chairman can be appointed by the President. Dr. Jones would like to retain his regular membership in the IBC. Upcoming at UTEP will be a Biosafety Level III at the new Biological Sciences Building, plus a new vivarium. Committee membership needs to be re-worked to add members and to meet more than once per year. Drs Aley, Luis Martinez and Sid Das were mentioned as potential future members. Dr. Maxwell (guest) suggested the IBC consult with UTMB and UT Austin in their revising/updating their biosafety policies and procedures. UTEP's Biosafety Level III will probably be opened in early Spring, 2005. There is a need for UTEP to communicate with the El Paso community by establishing open meetings and forums on the benefits and implications of this new facility for citizens of El Paso. A dialogue should be opened up to establish a relationship between UTEP and the local community on the new Biosafety Level III area, working through University Communications and the media. New policy and security issues will be important areas for discussion with the community. Dr. Maxwell serves on the Policy Advisory Board for the BS Level IV facility in Galveston, Texas. Dr. Jones, Robert Moss and Emilio Rodriguez will meet subsequently on membership and updated policy issues. When an updated IBC policy is developed it will need to be included in the UTEP Handbook.

V. There being no additional business to report, the meeting adjourned at 2:52 p.m.

THE UNIVERSITY OF TEXAS AT EL PASO



Office of Research and
Sponsored Projects

INSTITUTIONAL BIOSAFETY COMMITTEE

Minutes of Meeting
March 7, 2005

Committee Members Present:

Emilio Rodriguez, **Chairman, Biological Safety Officer**
Delfina Dominguez, Ph.D., Associate Professor/CLS Program Coordinator, College of Health Science

Raoul Gonzales, MAJ, VC, DVM, Ph.D., Chief, Biological Research Services
at William Beaumont Army Medical Hospital

Mercedes Guzman

Larry P. Jones, Ph.D., Professor, Executive Director, Medical Professions Institute

Luis Martinez, Ph.D., Assistant Professor, Department of Chemistry

April D. Yancy, DVM, MPH, University Veterinarian

Committee Members Absent:

Robert Moss, Director, Environmental Health & Safety

Attendees:

Susan Avena, IRB and Intellectual Property Specialist, ORSP

Rosa Maldonado-Medina, Ph.D., Biology

Kyle Johnson, Ph.D., Biology

- I. **Call to Order:** The University of Texas at El Paso Institutional Biosafety Committee (IBC) meeting held in Burges Hall, Room 411 convened at 3:05 pm. Emilio Rodriguez, IBC Chairman and Biological Safety Officer, noted the presence of quorum and called the meeting to order. An Agenda, Minutes from the meeting of July 21, 2004, Memo from NIH OBA, Dr. Kyle Johnson's Cover Letter and UAB application, and IBC Roster were distributed. Mr. Rodriguez welcomed new IPC members, Dr. Delfina Dominguez and Ms. Mercedes Guzman.
- II. **Vote on approval of minutes from July 21, 2004 meeting:** Mr. Rodriguez requested a motion to approve the minutes. Dr. Martinez made the motion, Dr. Yancy second the motion and a unanimous vote to accept the minutes as presented followed.
- III. **NIH Site Visit 2005:** Mr. Rodriguez then gave a brief presentation of the purpose and responsibilities of the IBC and informed the committee that NIH will be conducting site visits during the year. He also stated that the university is in compliance with NIH guidelines for research involving recombinant DNA molecules.

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IV. Review of Protocols:

- i. Rodrigo X. Armijo – “Develop a DNA Vaccine candidate for *Leishmania mexicana*”: Mr. Rodriguez requested a motion to approve **non-exempt** with the conditions that an Occupational Health Safety Program is set up through Environmental Health & Safety (EHS) and Campus Health Center because of the possibility of infection in the lab, which was stated incorrectly in the protocol. Dr. Dominguez made the motion and Dr. Gonzales second the motion and a unanimous vote followed.
- ii. Rosa Maldonado-Medina – “New Chemo- and Immunotherapeutic Approaches in Chagas’ Disease”: Mr. Rodriguez requested a motion to approve **non-exempt** with the conditions that proper medical screening of lab personal is set up through Environmental Health & Safety (EHS) and Campus Health Center. Dr. Martinez made the motion and Dr. Dominguez second the motion and a unanimous vote followed.
- iii. Kyle Johnson – “Effect of RNA interference on CFTR transgene expression”: Mr. Rodriguez requested a motion to approve **non-exempt** with the conditions that an Occupational Health Safety Program is set up through Environmental Health & Safety (EHS) and Campus Health Center. Dr. Gonzales made the motion and Dr. Yancy second the motion and a unanimous vote followed.
- iv. Kyle Johnson – “RNA interference: control of RNA replication and regulation by viral suppressors”: Mr. Rodriguez requested a motion to approve **non-exempt** with the conditions that an Occupational Health Safety Program is set up through Environmental Health & Safety (EHS) and Campus Health Center and **pending** the approval from the Institutional Animal Use and Care Committee (IACUC). Ms. Guzman made the motion and Dr. Gonzales second the motion and a unanimous vote followed.

V. Other Business:

- i. **New Protocol:** Igor C. Almeida – “Molecular Composition, Biogenesis and Immunological Roles of *Trypanosoma cruzi* Vesicles” was brought to the IBC at the beginning of the meeting. The protocol will be sent to all members via email for review. All comments and questions will be directed to Mr. Rodriguez, who will contact the Dr. Almeida. A vote via email will then follow.
- ii. **Lab Informed Consent:** A question was brought to the IBC if it was policy to have lab personal sign an informed consent explaining the hazards of working in the lab. Mr. Rodriguez said he would look into the issue and see if departments on campus were doing that.

VI. Adjournment: Dr. Gonzales made a motion to adjourn the meeting at 4:58 pm and Ms. Guzman second the motion and a unanimous vote followed.

THE UNIVERSITY OF TEXAS AT EL PASO



Office of Research and
Sponsored Projects

INSTITUTIONAL BIOSAFETY COMMITTEE

Minutes of Meeting
July 7, 2005

Committee Members Present:

Emilio Rodriguez, Chairman, Biological Safety Officer *ER*
Delfina Dominguez, Ph.D., Associate Professor/CLS Program Coordinator, College of Health Science
Raoul Gonzales, MAJ, VC, DVM, Ph.D., Chief, Biological Research Services at William Beaumont Army Medical Hospital
Mercedes Guzman, EPISD Science Facilitator
Larry P. Jones, Ph.D., Professor, Executive Director, Medical Professions Institute
Robert Moss, Director, Environmental Health & Safety
April D. Yancy, DVM, MPH, University Veterinarian

Committee Members Absent:

Luis Martinez, Ph.D., Assistant Professor, Department of Chemistry

Attendees:

Susan Avena, IRB and Intellectual Property Specialist, ORSP

- I. **Call to Order:** The University of Texas at El Paso Institutional Biosafety Committee (IBC) meeting held in Burges Hall, Room 411 convened at 10:05 am. Emilio Rodriguez, IBC Chairman and Biological Safety Officer, noted the presence of quorum and called the meeting to order. An IBC Roster, Agenda, Minutes from the meeting of March 7, 2005, Questions from Committee & Answers for Protocol #R4, UTEP Occupational Health Table, and Information & Agenda for IBC SW Regional Conference
- II. **Vote on approval of minutes from March 7, 2005 meeting:** Mr. Rodriguez requested a motion to approve the minutes. Robert Moss made the motion, Dr. Dominguez second the motion and a unanimous vote to accept the minutes as presented followed.
- III. **Review of Protocols:**
 - i. Siddhartha Das – R4 "Phospholipid Synthesis by *Giardia lamblia*, a Primitive Eukaryote and Surveying Genes in Lung and Colon Cancer Cells by Microarray Analysis": Mr. Rodriguez requested a motion to approve **non-exempt**. Ms. Guzman made the motion and Dr. Gonzales second the motion and a unanimous vote followed.

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- ii. William Baldwin – R5 “Antagonism of the Pregnane X-Receptor may Inhibit Estradiol Metabolism and Elimination Therefore Increasing Estradiol-Mediated Breast Cancer Growth”: Mr. Rodriguez requested a motion to approve **exempt**. Dr. Gonzales made the motion and Dr. Jones second the motion and a unanimous vote followed.
 - iii. Lisa Bain – R7 “Examination of Altered Gene Expression in the Mummichog Upon Chronic Exposure to Estuarine Pollutants”: Mr. Rodriguez requested a motion to approve **exempt**. Dr. Jones made the motion and Dr. Dominguez second the motion and a unanimous vote followed.
 - iv. Stephen Aley – R10 “Molecular Parasitology”: Mr. Rodriguez requested a motion to approve **non-exempt**. Ms. Guzman made the motion and Dr. Jones second the motion and a unanimous vote followed.
 - v. Renato Aguilera – R12 “Molecular Studies on Engulfment-Mediated DNA Degradation”: Mr. Rodriguez requested a motion to approve **exempt** with the condition if a change in species is involved in future use, a new protocol must be submitted to the Biosafety Committee and IACUC. Dr. Jones made the motion and Mr. Moss second the motion and a unanimous vote followed.
 - vi. Stephen Aley – R14 “Giardia Transfection”: Mr. Rodriguez requested a motion to approve **non-exempt**. Dr. Jones made the motion and Ms. Guzman second the motion and a unanimous vote followed.
- IV. **Other Business:**
- i. **IBC Conference:** Mr. Rodriguez reminded the IBC Committee of the upcoming IBC Conference being held in San Antonio, TX on August 18-19, 2005
 - ii. **Occupational Health Program:** Mr. Rodriguez informed the committee of the change to implement the OHP at an institutional level with the help of the Student Health Center instead of varying by department.
 - iii. **IACUC Update:** Dr. Yancy updated the committee on the renovations of the Biology Building to accommodate the IACUC protocols.
- V. **Adjournment:** Mr. Moss made a motion to adjourn the meeting at 11:13 am and Dr. Gonzalez second the motion and a unanimous vote followed.

THE UNIVERSITY OF TEXAS AT EL PASO




Office of Research and
Sponsored Projects

INSTITUTIONAL BIOSAFETY COMMITTEE

Minutes of Meeting
February 10, 2006

Committee Members Present:

Emilio Rodriguez, Chairman, Biological Safety Officer 
Delfina Dominguez, Ph.D., Associate Professor/CLS Program Coordinator, College of Health Science
Kyle L. Johnson, Ph.D., Assistant Professor, Biological Sciences
Teresa A. Owens, Senior Microbiologist, El Paso City-County Health District
April D. Yancy, DVM, MPH, University Veterinarian

Committee Members Absent:

Mercedes Guzman, EPISD Science Facilitator
Luis Martinez, Ph.D., Assistant Professor, Department of Chemistry
Robert Moss, Director, Environmental Health & Safety

Attendees:

Susan Avena, IRB and Intellectual Property Specialist, ORSP

- I. **Call to Order:** The University of Texas at El Paso Institutional Biosafety Committee (IBC) meeting held in Burges Hall, Room 411 convened at 10:45 am. Emilio Rodriguez, IBC Chairman and Biological Safety Officer, noted the presence of quorum and called the meeting to order. An IBC Roster, Agenda, Minutes from the meeting of July 7, 2005, IBC FAQ's, and EHS Report of Biological Safety Cabinets and Clean Bench Laminar Flow Hood 2005-2006
- II. **Vote on approval of minutes from July 7, 2005 meeting:** Mr. Rodriguez requested a motion to approve the minutes. Dr. Dominguez made the motion, Dr. Yancy second the motion and a unanimous vote to accept the minutes as presented followed.
- III. **Review of Protocols:**
 - I. 2006-01: "Nitroarene-Dependent Nitration of Neural Proteins as a Mechanism of Toxicity" by Dr. R.T. Miller: Mr. Rodriguez mentioned that the location of Dr. Miller's research had changed. Dr. Yancy noted that since the protocol involved rat brain tissue that in the future, Dr. Miller may possibly have to submit an animal protocol to the IACUC. Dr. Yancy asked that the IBC notify the IACUC that potentially, the rNOS studies will involve *in vivo* work in rats. Mr. Rodriguez requested a motion to approve **exempt**. Dr. Johnson made the motion and Dr. Dominguez second the motion and a unanimous vote followed.

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- ii. 2006-02: "Treatment of Hispanic Adolescents at Risk for Type 2 Diabetes with Pioglitazone" by Dr. Martha Cruz: Mr. Rodriguez read the email from Dr. Yancy stating that the primary IBC concerns are the clinical studies that require repeated blood draws for glucose analyses. There is no Recombinant DNA work proposed. This protocol 2006-02 studying the effect of pioglitazone on T2D in obese Hispanic adolescents can be exempt. Mr. Rodriguez stated that since Dr. Cruz was working with Texas Tech, they asked that she get approval from both the UTEP IBC and IRB. Mr. Rodriguez requested a motion to approve **exempt** pending the approval from UTEP IRB. Dr. Dominguez made the motion and Dr. Johnson second the motion and a unanimous vote followed.
- iii. 2005-01: "New Chemo- and Immunotherapeutic Approaches in Chagas' Disease" by Dr. Rosa A. Maldonado: Mr. Rodriguez informed the committee that Dr. Maldonado has begun the expression studies of her research in Biology building. Dr. Yancy stated that the biology building had been remodeled to accommodate BS level 2 research. *During the review of the protocol the committee decided that all PIs must include a copy of their biosafety practices with the progress report.* Mr. Rodriguez requested a motion to approve the update of the **non-exempt** protocol with the same conditions that were given with the original approval: Continue medical screening of new and current lab personal through Environmental Health & Safety (EHS) and Student Health Center; Infectious work with *T. cruzi* will be conduction in Biology only. Dr. Johnson made the motion and Ms. Owens second the motion and a unanimous vote followed. Note: Dr. Dominguez left at 12:00 pm but sent her proxy vote to Susan Avena.
- iv. 2005-02: "Develop a DNA Vaccine candidate for *Leishmania mexicana*" by Dr. Rodrigo X. Armijos: The committee also requested that Dr. Armijos include a copy of his biosafety practices with the progress report. Mr. Rodriguez requested a motion to approve the update of the **non-exempt** protocol with the same conditions that were given with the original approval: Continue medical screening of new and current lab personal through Environmental Health & Safety (EHS) and Student Health Center. Ms. Owens made the motion and Dr. Johnson second the motion and a unanimous vote followed.
- v. 2005-03: "Effect of RNA Interference on CFTR Transgene Expression" by Dr. Kyle L. Johnson: The committee also requested that Dr. Johnson include a copy of her biosafety practices with the progress report. Mr. Rodriguez requested a motion to approve the update of the **non-exempt** protocol with the same conditions that were given with the original approval: Continue medical screening of new and current lab personal through Environmental Health & Safety (EHS) and Student Health Center; Research will be limited to non-infectious viral particles. Dr. Yancy made the motion and Ms. Owens second the motion and a unanimous vote followed.
- vi. 2005-04: "RNA Interference Control of RNA Replication and Regulation by Viral Suppressors" by Dr. Kyle L. Johnson: The committee also requested that Dr. Johnson include a copy of her biosafety practices with the progress report. Dr. Johnson told the committee that she would like begin working with whole infectious Nodamura virus under this protocol at Biosafety Level 2. The committee asked Dr.

Johnson her timeline for working with her infectious virus. Dr. Johnson replied that it would be at least 1 year before she could begin working with the infectious virus. The committee decided to seek guidance from the CDC with regards to using Nodamura virus at BSL2 but in the meantime Dr. Johnson can continue her preliminary work. Mr. Rodriguez requested a motion to approve the update of the **non-exempt** protocol with the same conditions that were given with the original approval: Continue medical screening of new and current lab personal through Environmental Health & Safety (EHS) and Student Health Center; Approval to work with non-infectious viral particles only; Any work involving animals is pending approval of animal protocol by Institutional Animal Care and Use Committee (IACUC); Pending approval to work with whole infectious viral particles by IBC for further guidance from CDC. Ms. Owens made the motion and Dr. Yancy second the motion and a unanimous vote followed.

- vii. 2005-05: "Molecular Composition, Biogenesis and Immunological Roles of *Trypanosoma cruzi* Vesicles" by Dr. Igor C. Almeida: The committee also requested that Dr. Almeida include a copy of his biosafety practices with the progress report. Mr. Rodriguez requested a motion to approve the update of the **non-exempt** protocol with the same conditions that were given with the original approval: Continue medical screening of new and current lab personal through Environmental Health & Safety (EHS) and Student Health Center; Infectious work with *T. cruzi* will be conducted in Biology only. Dr. Yancy made the motion and Dr. Johnson second the motion and a unanimous vote followed.

IV. **Other Business:**

- i. **EHS Report of Biological Safety Cabinets and Clean Bench Laminar Flow Hood 2005-2006:** Mr. Rodriguez informed the committee about the EHS report of biological safety cabinets and laminar flow hoods.
- ii. **Charter:** Mr. Rodriguez informed the committee that he and Susan Avena were in the process of developing a charter for the IBC. He stated that he would have a draft for the committee at the next meeting to get input from committee members.

- V. **Adjournment:** Dr. Johnson made a motion to adjourn the meeting at 1:45 pm and Dr. Yancy second the motion and a unanimous vote followed.



Office of the
Vice President for
Business Affairs

June 30, 2006

Mr. Edward Hammond
The Sunshine Project
PO Box 41987
Austin, Texas 78704

Re: **TEXAS PUBLIC INFORMATION ACT**

Dear Mr. Hammond:

This is in response to the portion of your request under the Texas Public Information Act dated March 15, 2006, received April 3, 2006, which was sent to the Office of the Attorney General of the State of Texas for adjudication. In accordance with Attorney General Ruling OR2006-06340, a copy of the minutes of the February 10, 2006 Institutional Biosafety Committee (IBC) meeting is attached.

Sincerely,

A handwritten signature in black ink, appearing to read "Cynthia Vizcaino Villa".

Cynthia Vizcaino Villa
Vice President

El Paso, Texas
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Office of the
Vice President for
Finance and
Administration

June 20, 2006

Mr. Edward Hammond
The Sunshine Project
PO Box 41987
Austin, Texas 78704

Re: **TEXAS PUBLIC INFORMATION ACT**

Dear Mr. Hammond:

This is in response to the portion of your request under the Texas Public Information Act dated March 15, 2006, received April 3, 2006, which was sent to the Office of the Attorney General of the State of Texas for adjudication. In accordance with Attorney General Ruling OR2006-06340, a copy of the minutes of the February 10, 2006 Institutional Biosafety Committee (IBC) meeting will be provided to you after the minutes are finalized at the IBC meeting which is scheduled for June 27, 2006.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cynthia Vizcaino Villa".

Cynthia Vizcaino Villa
Vice President

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ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 15, 2006

Ms. Carol Longoria
Office of the General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2006-06340

Dear Ms. Longoria:

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# 252079.

The University of Texas at El Paso (the "university") received a request for minutes of the university's Institutional Biosafety Committee (the "committee") since May 1, 2003. You state that some of the requested information has been released, but claim that the submitted information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

Section 552.111 excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." This exception encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 2 (1993). The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. *See Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, no writ); Open Records Decision No. 538 at 1-2 (1990).

In Open Records Decision No. 615 (1993), this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v.*

¹We note that the requestor has asked the university to answer questions. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). We assume the university has made a good faith effort to do so.

Gilbreath, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ). We determined that section 552.111 excepts from disclosure only those internal communications that consist of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. See Open Records Decision No. 615 at 5. A governmental body's policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; see also *City of Garland v. Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body's policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body's policy mission. See Open Records Decision No. 631 at 3 (1995).

Further, section 552.111 does not protect facts and written observations of facts and events that are severable from advice, opinions, and recommendations. See Open Records Decision No. 615 at 5. But if factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make severance of the factual data impractical, the factual information also may be withheld under section 552.111. See Open Records Decision No. 313 at 3 (1982).

This office has also concluded that a preliminary draft of a document that is intended for public release in its final form necessarily represents the drafter's advice, opinion, and recommendation with regard to the form and content of the final document, so as to be excepted from disclosure under section 552.111. See Open Records Decision No. 559 at 2 (1990) (applying statutory predecessor). Section 552.111 protects factual information in the draft that also will be included in the final version of the document. See *id.* at 2-3. Thus, section 552.111 encompasses the entire contents, including comments, underlining, deletions, and proofreading marks, of a preliminary draft of a policymaking document that will be released to the public in its final form. See *id.* at 2.

The university informs us that the submitted information is a draft of committee minutes that will not be finalized until the next meeting of the committee. You also inform us that the final approved minutes will be released to the public. Based upon these representations and our review of the information at issue, we agree that the university may withhold the submitted information under section 552.111.

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).

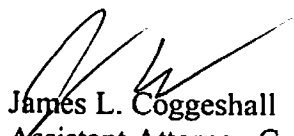
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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. 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 252079

Enc. Submitted documents

c: Mr. Edward H. Hammond
The Sunshine Project
P.O. Box 41987
Austin, Texas 78704
(w/o enclosures)