



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 17, 2018

Ms. Ruhee G. Leonard
Assistant County Attorney
Williamson County Attorney's Office
405 Martin Luther King Street, Box 7
Georgetown, Texas 78626

OR2018-00983

Dear Ms. Leonard:

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# 691797 (PIA-2017-267).

Williamson County (the "county") received a request for ten categories of information pertaining to the county's Emergency Communications Department during a specified time period.¹ You claim the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the information.

Initially, we note you have only submitted information responsive to the portion of the request seeking credentialing records. Although you state the county submitted a representative sample of information, the submitted information is not representative of the ten categories of information requested. Thus, we find the submitted information is not representative of the specified position statement. This open records letter applies to only the type of information you have submitted for our review. Therefore, this ruling does not

¹We note the county sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

authorize the withholding of any other requested records to the extent those records contain substantially different types of information than that submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301 of the Government Code, information at issue is presumed to be public). Thus, to the extent the remaining requested information was maintained by the county on the date the county received the request for information, we presume the county has released such information. If not, the county must do so at this time. *See id.* §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

Section 552.122 of the Government Code excepts from public disclosure “[a] test item developed by a . . . governmental body[.]” Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined the term “test item” in section 552.122 includes “any standard means by which an individual’s or group’s knowledge or ability in a particular area is evaluated,” but does not encompass evaluations of an employee’s overall job performance or suitability. ORD 626 at 6. The question of whether specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *Id.* Traditionally, this office has applied section 552.122 where release of “test items” might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976). Section 552.122 also protects the answers to test questions when the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

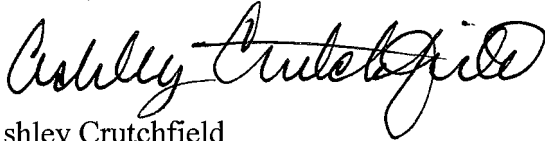
The county seeks to withhold the submitted scenario tests under section 552.122 of the Government Code. The county asserts the tests evaluate the technical expertise and knowledge based skills of employees in a particular area. However, upon review, we find the submitted information does not evaluate an individual’s or group’s knowledge or ability in a particular area. Rather, the submitted information reveals questions that evaluate an applicant’s individual abilities and subjective ability to respond to a particular situation. Accordingly, the county may not withhold any portion of the submitted information under section 552.122 of the Government Code. The county must release the submitted information.

This letter ruling is limited to the particular information 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 information 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Ashley Crutchfield". The signature is written in a cursive style with a large initial 'A' and 'C'.

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/sb

Ref: ID# 691797

Enc. Submitted documents

c: Requestor
(w/o enclosures)