



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 8, 2019

Ms. Ann-Marie Sheely
Assistant County Attorney
Travis County Sheriff's Office
P.O. Box 1748
Austin, Texas 78767

OR2019-18413

Dear Ms. Sheely:

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# 773941.

The Travis County Sheriff's Office (the "sheriff's office") received a request for the board results of the requestor and another sheriff's office employee. You state the sheriff's office will release some information. 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 submitted information.

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.

You state the submitted information constitutes test items. You also state release of the information at issue would compromise future examinations of Hospital/Visitation Unit candidates. Based upon your representations and our review, we agree some of the information at issue, which we have indicated, consists of a “test item” under section 552.122(b) of the Government Code. Furthermore, we find release of the answers to the questions would reveal the questions. Accordingly, the sheriff’s office may withhold the information we have indicated under section 552.122(b) of the Government Code. However, we find the remaining information only evaluates an applicant’s general workplace skill, subjective ability to respond to particular situations, and overall suitability for employment, and does not test any specific knowledge of the applicant. Thus, we determine the remaining information does not consist of test items under section 552.122(b) of the Government Code. Therefore, the sheriff’s office may not withhold the remaining information under section 552.122 of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from disclosure the home address, home telephone number, emergency contact information, social security number, and family member information of a peace officer, regardless of whether the peace officer complies with section 552.024 or 552.1175 of the Government Code.¹ Gov’t Code § 552.117(a)(2). Accordingly, the sheriff’s office must withhold the information we have marked under section 552.117(a)(2) of the Government Code.

In summary, the sheriff’s office may withhold the information we have indicated under section 552.122(b) of the Government Code. The sheriff’s office must withhold the information we have marked under section 552.117(a)(2) of the Government Code. The sheriff’s office must release the remaining 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/>

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987). Section 552.117(a)(2) adopts the definition of peace officer found in article 2.12 of the Code of Criminal Procedure.

[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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/gw

Ref: ID# 773941

Enc. Submitted documents

c: Requestor
(w/o enclosures)