



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 28, 2020

Ms. D. Michelle Case
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2020-18688

Dear Ms. Case:

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# 839044 (ORR# 839182-1).

The Travis County Sheriff's Office (the "sheriff's office") received a request for the notes from the requestor's previous two board exams. The sheriff's office claims some of the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception the sheriff's office claims and reviewed the submitted information.

Section 552.122 of the Government Code excepts from disclosure "[a] test item developed by a licensing agency or governmental body[.]" Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined that 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." 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.* at 6. 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 sheriff's office seeks to withhold the submitted scenario questions and responses under section 552.122 of the Government Code. The sheriff's office states release of the information at issue would compromise the effectiveness of the sheriff's office's ability to test an applicant's knowledge and competency related to the matters to be tested. Based on

these representations and our review, we agree the scenario questions at issue, which the sheriff's office noted, qualify as test items under section 552.122(b) of the Government Code. We also find the release of the answers to these questions would tend to reveal the questions themselves. Accordingly, the sheriff's office may withhold the questions and answers it noted pursuant to section 552.122(b) 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 <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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/rm

Ref: ID# 839044

Enc. Submitted documents

c: Requestor
(w/o enclosures)