



**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

OR2020-18765

Dear Mr. 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# 839045.

The Travis County Sheriff's Office (the "sheriff's office") received a request for information pertaining to the requestor's "oral board" for a specified position. The sheriff's office claims the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.122(b) of the Government Code excepts from disclosure a test item developed by a licensing agency or governmental body. Gov't Code § 552.122(b). 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. Open Records Decision No. 626 at 9 (1994). Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. *See 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.

Upon review, we conclude some of the submitted questions consist of test items under section 552.122(b). We also find release of the responses to these questions would tend to reveal the questions themselves. Therefore, the sheriff's office may withhold these

questions and responses, which we have marked, under section 552.122(b). However, we conclude the sheriff's office has not established the remaining questions test an individual's or group's knowledge or ability in a particular area. *See* ORD 626 at 9. Therefore, the sheriff's office may not withhold the remaining questions, or their recommended answers or responses, under section 552.122(b) of the Government Code. Thus, 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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/be

Ref: ID# 839045

Enc. Submitted documents

c: Requestor  
(w/o enclosures)