



July 16, 1999

Mr. Leonard W. Peck, Jr.  
Assistant General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342

OR99-2005

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 126723.<sup>1</sup>

The Texas Department of Criminal Justice (the "department") received an open records request for the questions provided to and written answers provided by five applicants in connection with three examinations given by the department in association with a job posting for Parole Officer III position. You seek to withhold the requested information pursuant to section 552.122(b) of the Government Code.

Section 552.112(b) excepts from required public disclosure "test item[s] developed by a . . . governmental body." Section 552.122(b) is applicable only where the test items constitute a "standard means by which an individual's or group's knowledge or ability in a particular area is evaluated;" this exception does not apply to evaluations of an employee's overall job performance or suitability. Open Records Decision No. 626 at 6 (1994). Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. *Id.*

We have reviewed the information at issue. The examinations at issue consist of a spelling, a "matching," and a written examination. We believe that each of these tests constitute a "standard means by which an individual's or group's knowledge or ability in a particular area is evaluated." Furthermore, the applicants' responses to those examinations necessarily reveal the substance of the individual test items. The department, therefore, may withhold

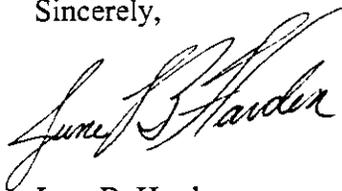
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<sup>1</sup>This request was also inadvertently assigned ID# 126904. We regret any confusion this may have caused.

all three examinations and the applicants' responses pursuant to section 552.112(b) of the Government Code.<sup>2</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/RWP/eaf

Ref.: ID# 126723

Encl. Submitted documents

cc: Ms. Diane Lemon  
5316 Timberwolf  
El Paso, Texas 79903  
(w/o enclosures)

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<sup>2</sup>Although you have submitted additional documents to this office for review, *i.e.*, each applicants' "Interview Documentation Form" and score sheets, these documents do not come within the ambit of the information request. We, therefore, do not address here whether the department must release these particular documents to the requestor.