



October 19, 1999

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

OR99-2956

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128477.

The Texas Department of Criminal Justice (the "department") received a request for certain documentation relating to the two selected candidates for positions #021425 and #021400. You state that the only information at issue is the interview questions which you seek to withhold under section 552.122 of the Government Code.

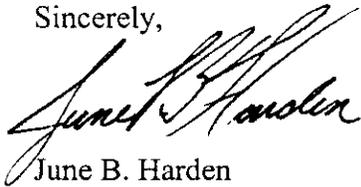
Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. We note that while section 552.122 may apply where release of test items might compromise the effectiveness of future examinations, the questions must first fall within the definition of a "test item". *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976). Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994).

We have considered your arguments and have reviewed the submitted document. We agree that most of the interview questions are "test items," and may be withheld under section 552.122(b). However, we do not believe that interview questions 3, 6, 7, and 11

test an individual's or group's knowledge or ability in a particular area, but rather, evaluate an applicant's experience and overall job suitability. You may not, therefore, withhold from disclosure interview questions 3, 6, 7 and 11 under section 552.122(b).

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 128477

Encl. Submitted documents

cc: Ms. Linda Douglas
Huntsville Regional HR Office
3009 Highway 30 West
Huntsville, Texas 77340
(w/o enclosures)