



November 17, 1999

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

OR99-3288

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130158.

The Texas Department of Criminal Justice (the “department”) received a request for, among other things, “the answers and questions to a Clerk III - Disciplinary, A06 board that took place on Tuesday, Sept. 14, 1999.” You claim that the information at issue is excepted from disclosure under section 552.122(b) of the Government Code.¹

Section 552.122(b) excepts from required public disclosure a “test item developed by a . . . governmental body.” Section 552.122(b) is applicable only where the test item constitutes 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(b) exception must be determined on a case-by-case basis. *Id.*

After reviewing the information at issue, we agree that some of the information at issue constitutes a “standard means by which an individual’s or group’s knowledge or ability in a particular area is evaluated.” Furthermore, we believe that the answers to those questions

¹We assume the department has released the other requested information to the requestor.

necessarily reveal the substance of the test item. The department may therefore withhold the information we have marked pursuant to section 552.122(b) of the Government Code. The remaining questions and answers must be released.

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,

A handwritten signature in black ink, appearing to read "Michael Jay Burns". The signature is fluid and cursive, with the first name "Michael" being the most prominent part.

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/RWP/ch

Ref: ID# 130158

Encl. Submitted documents

cc: Ms. Janet Gilbert
1229 East Kyle
Clute, Texas 77531
(w/o enclosures)