



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 1, 2015

Ms. Ann-Marie Sheely
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR2015-18256

Dear Ms. Sheely:

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# 578105.

The Travis County Sheriff's Office (the "sheriff's office") received a request for the notes and scores pertaining to the requestor's interview with the Hospital Visitation Unit Board at the Travis County Correctional Complex. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.122 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.122 of the Government Code excepts from public disclosure "[a] test item developed by a . . . governmental body[.]" Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined 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. 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.* 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).

You seek to withhold the submitted questions and their responses under section 552.122 of the Government Code. You state the sheriff's office reuses the questions during each interview period, and release of the information at issue would compromise the effectiveness of future examinations. You further state the questions at issue evaluate "the interviewees' knowledge and ability with regard to security coordination at a Travis County correctional facility." Having considered your arguments and reviewed the submitted information, we find the questions we have marked qualify as test items under section 552.122(b) of the Government Code. Accordingly, the sheriff's office may withhold the questions we have marked pursuant to section 552.122(b) of the Government Code. We further find the associated answers to the questions we have marked reveal the substance of the questions themselves. Therefore, the sheriff's office may withhold this information, which we have marked, under section 552.122(b).¹ We find, however, the remaining information does not test any specific knowledge of an applicant. Accordingly, we determine the remaining information does not consist of test items under section 552.122(b) of the Government Code and may not be withheld on that basis.

Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Gov't Code § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). A governmental body claiming section 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706. Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State." *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 at 327 (Tex. App.—Austin 2002, no pet.). This office has concluded section 552.108(b)(1) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section 552.108 of the Government Code is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (Penal Code provisions, common law rules, and constitutional limitations on use of force not protected), 252 at 3 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

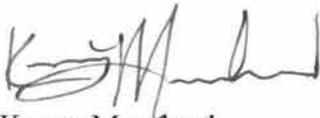
¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

You argue release of the remaining information would “hinder [the sheriff’s office’s] efforts of hiring adequate personnel for the position in question[.]” Having considered your arguments and reviewed the information at issue, we find you have failed to demonstrate release of the information at issue would interfere with law enforcement or crime prevention. Accordingly, the sheriff’s office may not withhold any of the remaining information under section 552.108(b)(1) of the Government Code. As you raise no further exceptions to disclosure, 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/som

Ref: ID# 578105

Enc. Submitted documents

c: Requestor
(w/o enclosures)