



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 25, 1994

Mr. Charles Karakashian, Jr.
Assistant General Counsel
Texas Department of Public Safety
5805 North Lamar Boulevard
Box 4087
Austin, Texas 78773-0001

OR94-404

Dear Mr. Karakashian:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (formerly V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 22974.

The Texas Department of Public Safety received an open records request for several items of information that relate to the Texas Rangers. You have provided the requestor with all the items but two: a copy of the written test which the 1993 Ranger applicants took and the questions asked of the 1993 Ranger applicants by the oral interview board. You are seeking to withhold these items under section 552.122 of the Government Code (formerly section 3(a)(22), V.T.C.S. art. 6252-17a). In particular, you claim that the questions constitute "test items" that are protected from disclosure by section 552.122.

We conclude that the written test and some of the questions asked by the oral interview board are "test items" under section 552.122, but that the remaining questions are not test items. Section 552.122(b) excepts from required public disclosure "[a] test item developed by a licensing agency or governmental body" As the term "test item" is used in section 552.122, it generally means any standard mechanism by which

¹The Seventy-third Legislature codified the Open Records Act as chapter 552 of the Government Code and repealed article 6252-17a, V.T.C.S. See Acts 1993, 73d Leg., ch. 268, §§ 1, 46. The codification of the Open Records Act in the Government Code is a nonsubstantive codification. *Id.* § 47.

the knowledge or ability of an individual or group in a particular area is evaluated. Whether a particular item is a test item must be determined on a case-by-case basis. Open Records Decision No. 626 (1994) at 6. The items on the written test constitute test items because they elicit particular answers that can be used to evaluate an applicant's knowledge in a particular area. Three of the questions asked by the oral interview board also possess this characteristic. The remaining questions asked by the oral interview board do not, however. Rather than seeking to elicit a particular response that can be used to evaluate an applicant's knowledge in a particular area, these questions seek to elicit the applicant's individual thoughts, opinions, and feelings on a topic; these questions resemble standard interview questions more than test items. Therefore, you may withhold the written test and the interview board questions that we have marked. You must release the remaining information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open-records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/rho

Ref.: ID# 22974

Enclosures: Marked documents

cc: Mr. Robert Draper
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