



April 26, 2000

Mr. James L. Hall  
Assistant General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342

OR2000-1613

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135177.

The Texas Department of Criminal Justice (the “department”) received a written request for, among other things, the requestor’s “interview notes” taken during the job application process.<sup>1</sup> You have submitted to this office as responsive to the request the interviewer’s handwritten notes that recorded the requestor’s responses to questions contained in an “Interview Documentation Form,” which you have also submitted to this office.<sup>2</sup> You contend that the interview notes are excepted from disclosure under section 552.122(b) of the Government Code.

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,” but does not apply to evaluations of an employee’s overall job performance or suitability. Open Records Decision No. 626 at 6 (1994). Whether

---

<sup>1</sup>You indicate that the department has released all other requested materials. If it has not, it must do so at this time. See Gov’t Code § 552.302.

<sup>2</sup>Because the “Interview Documentation Form” does not appear to come within the ambit of the records request, we construe your submission of this document as being for informational purposes only.

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 conclude that interview questions one, four, and six constitute a standard means by which an individual's or group's knowledge or ability in a particular area is evaluated and that the recorded answers to those questions tend to reveal the substance of the test item. We have marked the portions of the interview notes that the department may withhold pursuant to section 552.122(b). The remaining notations must be released to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

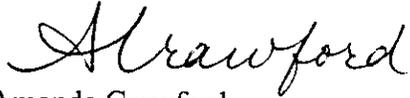
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Amanda Crawford".

Amanda Crawford  
Assistant Attorney General  
Open Records Division

AEC/RWP/ljp

Ref: ID# 135177 -

Encl. Submitted documents

cc: Mr. Ernest Altgelt  
615 Flamingo Boulevard  
Austin, Texas 78734  
(w/o enclosures)