



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. REYNOLDS
ATTORNEY GENERAL**

March 1, 1976

The Honorable James E. Ingram
Attorney
Bexar County Mental Health -
Mental Retardation Services
900 Alamo National Building
San Antonio, Texas 78205

Open Records Decision No. 119

Re: Access to personnel
records by legislator.

Dear Mr. Ingram:

On behalf of the Board of Trustees of the Bexar County Mental Health - Mental Retardation Services, you request our decision pursuant to section 7 of the Open Records Act, article 6252-17a, V.T.C.S., as to whether the personnel records of a discharged employee are excepted from required public disclosure to a legislator.

It is clear from our prior decisions that the information requested is excepted from required public disclosure by section 3(a)(2) of the Act. Open Records Decision Nos. 106, 93, 90, 71, 68 (1975), 55, 20 (1974). See Open Records Decision Nos. 103, 82, 81 (1975), 60 (1974).

The interest protected by the section 3(a)(2) exception is the privacy of the individual concerned. He is entitled to access to the information himself, or may designate a representative to whom it may be disclosed without making the information public, or may waive his privacy interest and consent to the information being made public. Open Records Decision Nos. 93, 68 (1975).

In response to our inquiry to the discharged employee, this office was informed that the requesting legislator is not acting as the employee's legal representative, and that the discharged employee declined to waive any privacy interest he had in the information.

The legislator making the request has stated in his correspondence that the request is for legislative purposes.

Section 3(b) of the Act provides in pertinent part:

This section is not authority to withhold information from individual members or committees of the legislature to use for legislative purposes.

Section 14(c) provides:

This Act does not give authority to withhold information from individual members or committees of the Legislature of the State of Texas to use for legislative purposes.

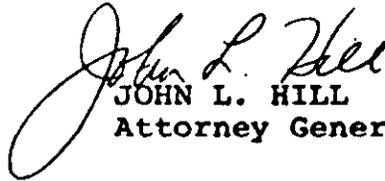
We have held that these provisions do not give legislators access to information made confidential by other statutes. Attorney General Opinions H-427, H-353 (1974); Open Records Decision Nos. 62, 44 (1974).

The issue is whether these provisions and a legislator's bare assertion of a legislative purpose constitute affirmative authority to compel every governmental body in Texas to disclose information to that legislator which is otherwise not accessible to the public. This would include, for example, information relating to a water district's civil litigation, the complete records of every city's police department, the intra-agency memoranda of a school district, and information pertaining to a county's location of a public project prior to public announcement.

In this instance, we have not been referred to any statement of legislative purpose by the Legislature, nor have we found any. See Watkins v. United States, 345 U.S. 178 (1957); Ashland Oil, Inc. v. Federal Trade Commission, Civil No. 75-1956 (U.S. Dist. Ct. D.C., Feb. 2, 1976) at 13-18.

The information requested here is excepted from required public disclosure by section 3(a)(2) of the Open Records Act. We have found no affirmative delegation of the Legislature's investigative authority for a specified purpose which would give the requestor an overriding right of access which would compel disclosure of the requested information.

Very truly yours,



JOHN L. HILL
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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