



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

June 18, 1976

The Honorable Jonathan Day  
City Attorney  
P. O. Box 1562  
Houston, Texas 77001

Open Records Decision No. 133

Re: Access to personnel  
file by terminated police  
cadets.

Dear Mr. Day:

Pursuant to section 7 of the Open Records Act, article 6252-17a, V.T.C.S., you request our decision as to whether information in the personnel file of two terminated police cadets is excepted from disclosure to them by section 3(a)(8) of the Act.

The individuals requesting the information were employed as Houston park policemen, were then employed as Houston Police Department police cadets, and were then terminated from that position.

The information submitted for our decision includes memoranda concerning the employment relationship of each of these men while employed as park policemen. The memoranda are from their immediate supervisor to the Director of the Parks Department concerning disciplinary action. These men are entitled to these memoranda pursuant to section 3(a)(2) of the Act, which entitles an employee of a governmental body to inspect information in his own personnel file. They are entitled to these memoranda by virtue of their employment relationship as park policemen. Open Records Decision Nos. 90 (1975); 55 (1974); 31 (1974).

The next type of information involved consists of evaluation questionnaires solicited by the Police Department from the former employers, friends, and other references of the individuals. The questionnaire form requests an evaluation and states: "You may rest assured your evaluation will be treated in strict confidence."

This is the same type of information which we held to be available to an employee in Open Records Decision No. 55 (1974). See Open Records Decision No. 90 (1975). A promise of confidentiality in regard to information required to be disclosed by the Open Records Act is in contravention of the Act and is unauthorized. Attorney General Opinion H-258 (1974); Open Records Decision Nos. 101, 55A (1975).

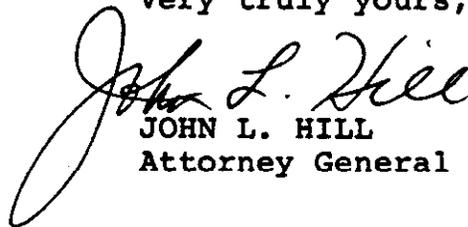
The next type of information contained in the files is inter-office memoranda recommending the termination of these men from the position of police cadet. While this information is excepted from general public disclosure, it is required to be disclosed to the individual employee to whom it relates by section 3(a)(2) of the Act. Open Records Decision Nos. 90 (1975); 55 (1974).

You contend that even though the information requested is personnel information, it should be excepted by that portion of the exception in section 3(a)(8) which excepts ". . . the internal records and notations of such law enforcement agencies which are maintained for internal use in matters relating to law enforcement." We do not believe that this exception can be read so broadly. We have said that the type of information intended to be excepted by this language is that which could assist an individual in simultaneously violating the law and avoiding detection. Open Records Decision No. 22A (1974). The section 3(a)(8) law enforcement records exception has been held not to include administrative records such as the Houston Police Blotter, the Show-up Sheet, or the Arrest Sheet. Houston Chronicle Publishing Company v. City of Houston, 531 S.W.2d 177, 185 (Tex. Civ. App. -- Houston [14th Dist.] 1975, writ ref'd n.r.e.).

We have recognized that the section 3(a)(8) exception may be applicable to information concerning an employee of a law enforcement agency gathered for the purpose of investigating and detecting crime which that employee may have committed.

See Open Records Decision Nos. 105, 71 (1975). However, the information here is not of this type, and was not gathered for the purpose of investigating or detecting crime, but clearly relates only to the individuals' qualifications for employment. It is our decision that section 3(a)(8) of the Act does not except routine personnel information such as is at issue here from disclosure to the employee pursuant to section 3(a)(2). Accordingly, the information should be disclosed to the employees who requested it.

Very truly yours,



JOHN L. HILL  
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman  
Opinion Committee

jwb