

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD.-BOX 4087-AUSTIN, TEXAS 78773-0001

512/465-2000



JAMES R. WILSON
DIRECTOR

DUDLEY M. THOMAS
ASST. DIRECTOR



COMMISSION
RONALD D. KRIST
CHAIRMAN

ALBERT B. ALKEK
ROBERT E. HOLT
COMMISSIONERS

REC'D

JUN 0 1 93

RQ-576

June 1, 1993

Opinion Comm

GW

RQ 00576-DM
~~MI-20591-93~~

FILE #

I.D.#

20521

The Honorable Dan Morales
Attorney General of Texas
Price Daniel, Sr., Building
209 W. 14th Street
Austin, Texas

Re: Open Records Request

Dear General Morales:

Pursuant to Section 7 of the Texas Open Records Act, Article 6252-17a, V.T.C.S., the Texas Department of Public Safety hereby requests a decision as to whether certain information is exempt from public disclosure under Sections 3(a)(2), 3(a)(11) and 3(a)(22) of the Act.

The department has received two separate Open Records requests from Trooper John LaRocque. These requests deal with the trooper's attempt to promote to the position of Sergeant/Investigator with the Motor Vehicle Theft Service.

Attached as Exhibit A is a letter dated May 20, 1993, written by Trooper LaRocque requesting "...all the handwritten notes collected, assembled or maintained by or for the department in connection with the Motor Vehicle Theft Service's promotion board..." The notes the trooper refers to are personal notes taken by an oral interview board member during a candidate's oral interview. As a result of the oral interview, the candidate is given a numerical score. These scores are used to rank the candidates for each position. Please see the attached oral interview board score sheet (Pe-40a).

Board members may or may not take personal notes during an oral interview. They are not required to take notes. If notes are taken, they are not turned in to the department but are kept by each individual board member.

The department does not believe these notes are governmental records under the Open Records Act. It is discretionary for each board member to decide if they wish to take notes during an oral interview board. If notes are taken, it is within the board member's discretion to keep the notes or not.

If these personal notes are considered to be governmental records, the department believes Trooper LaRocque would only be entitled to the notes on himself. The department believes release of the oral interview board notes on other candidates would be an unwarranted invasion of their privacy. A representative sample of these notes will be sent as a supplement to this request.

The Honorable Dan Morales
Page 2

Attached as Exhibit B is the second letter, dated May 26, 1993, from Trooper LaRocque. This letter covers the same promotional process for Motor Vehicle Theft Sergeant as Exhibit A.

The trooper requests, in Exhibit B, "... all documents and tangible things that were relied upon by the department in determining that I would not be selected for promotion to Sergeant/Investigator in the Motor Vehicle Theft Service as a result of the April 1993 interview process." The trooper also requests "... oral examination reports, scores and notes that were compiled by each board member on each candidate who appeared before the board and a copy of the background investigation performed on each candidate that appeared before the board." Lastly, the trooper would like to review the public portions of the personnel file of each candidate who appeared before the board.

The public portions of the personnel files will be made available for the trooper's review.

The oral examination report, scores and notes and background information are all of the documents, of which the department is aware, that were used in the promotional process. These are the same types of documents that are the subject of a previous Open Records request concerning a request made by Trooper Pedro Lozano. Please see my letter to you dated May 28, 1993. The department re-urges the arguments made in that previous Open Records request which is attached hereto and incorporated by reference.

A representative sample of the documents requested will be sent as a supplement to this request.

If you have any questions, or need any additional information, please let me know.

Sincerely,



Charles Karakashian, Jr.
Assistant General Counsel

CK:bif

Attached