



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL,  
ATTORNEY GENERAL**

February 12, 1975

Overruled By:

# ORD 444

*in part*

Mr. Robert E. Diaz  
Legal Division  
Arlington Police Department  
P. O. Box 231  
Arlington, Texas 76010

Open Records Decision No. 71

Re: Personnel record of  
police employees.

Dear Mr. Diaz:

Pursuant to section 7(a) of the Open Records Act, article 6252-17a, V. T. C. S., you ask whether information in the personnel file of a former department employee is excepted from disclosure as a personnel record under section 3(a)(2) and as a law enforcement record under section 3(a)(8) of the Act.

The information sought concerns the former employee's character, methods used in the work he performed, whether he was suspected or convicted of drug offenses, dates of employment and conditions of termination of employment.

Section 3(a)(2) of the Act excepts from disclosure "information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section 6(a)(2) of the Act specifically makes public the following information: "the names, sex, ethnicity, salaries, title, and dates of employment of all employees and officers of governmental bodies."

It is our opinion that most of the information in the former employee's personnel file is excepted from disclosure by Section 3(a)(2) of the Act. Specifically, information concerning evaluation or investigation of the employee's qualifications and performance is not required to be disclosed. Nor do we think that information concerning the circumstances of termination of employment is required to be disclosed. The information specified in section 6(a)(2) should be extracted and made available to the requesting party.

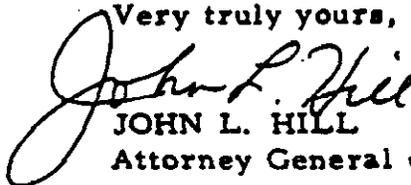
If information relating to suspicion or conviction of offenses exists, which we do not mean to imply here, that information would have been gathered either in connection with the employment relationship, or pursuant to the Department's responsibilities to investigate and detect crime, and would be excepted from disclosure either under section 3(a)(2) or 3(a)(8), depending upon the purpose for which it was gathered. In either case, even if such information existed, we do not believe the Department would be required to make it public.

There was a delay of more than ten days between the receipt of the request for information and your forwarding it to this office. This gives rise to a presumption that the information is public. Section 7(a).

However, in Open Records Decision No. 26 (1974) we indicated that this presumption could be overcome by a compelling demonstration that the requested information should not be made public. Here, the information is excepted from disclosure by a provision clearly designed to protect the privacy interests of a third party, the individual employee. We do not believe that delay on the part of the governmental body can be allowed to diminish that interest. We consider the protection of the privacy interest of a third party in this instance a compelling reason which overcomes the presumption.

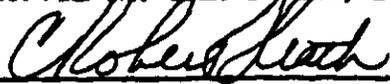
Employment information specified in section 6(a)(2) of the Open Records Act should be extracted and provided to the requesting party. The other information requested is excepted from disclosure by section 3(a)(2).

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
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DAVID M. KENDALL, First Assistant

  
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C. ROBERT HEATH, Chairman  
Opinion Committee