



The Attorney General of Texas

December 31, 1982

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Mr. W. P. Daves, Jr., Chairman
State Board of Insurance
1110 San Jacinto
Austin, Texas 78786

Open Records Decision No. 345

Re: Files of applicants for
employment as state arson
investigator

Dear Mr. Daves:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to the availability of files of applicants for employment as a state arson investigator.

On May 3, 1982, the State Board of Insurance posted a notice announcing that it was accepting applications for an "arson investigator 1" position. The requestor is one of the persons who had submitted an application. He now seeks "complete application files on all persons selected to fill the arson investigator positions," as well as the complete file relating to himself. Although the requestor has been informed otherwise, you state that the position has not been filled. The request is therefore necessarily limited to the requestor's file. You suggest that this material is excepted from disclosure by section 3(a)(1), 3(a)(2) and 3(a)(11) of the Open Records Act.

Section 3(a)(11) excepts:

inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than one in litigation with the agency.

As we have frequently observed, section 3(a)(11) permits an agency to withhold advice, opinions, and recommendations contained in inter-agency or intra-agency memoranda. Open Records Decision Nos. 315, 308 (1982); 239 (1980). See also Open Records Decision No. 273 (1981). Thus, evaluations of the requestor contained in his application file and all other opinion-like material therein may be withheld under section 3(a)(11).

We presume that, by raising section 3(a)(1), you intend to claim the exception for information made confidential by a constitutional or

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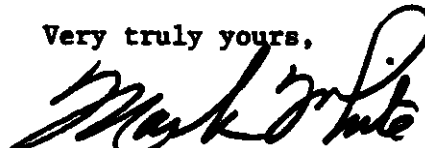
Equal Opportunity/
Affirmative Action Employer

common law right of privacy. See Open Records Decision Nos. 262, 257 (1980). Likewise, section 3(a)(2) excepts information to the extent that its disclosure would constitute a clearly unwarranted invasion of personal privacy. Open Records Decision Nos. 298, 278 (1981). Section 3(a)(2) is applicable only to employees, however; it does not apply to applicants for employment. Open Records Decision No. 110 (1975).

As to constitutional or common law privacy under section 3(a)(1), we find nothing in the remaining records that would be protected by a right of privacy under section 3(a)(1). You have not pointed out any records protected by this section. See Open Records Decision No. 318 (1982).

We conclude that all material containing advice, opinion, or recommendations may be withheld from the requestor. The remainder of his application file should be made available to him.

Very truly yours,



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