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POLICE—POLICE COMMISSIONER, BALTIMORE CITY—APPLICANT FOR APPOINTMENT OR PROMOTION ENTITLED TO INSPECT MATERIAL CONSIDERED IN DETERMINING ELIGIBILITY BUT NOT ENTITLED TO IDENTITY OF EXAMINING AUTHORITY.

May 3, 1972.

*Commissioner Donald D. Pomerleau,  
Baltimore City Police Department.*

Your recent letter prepared by Deputy Commissioner Ralph G. Murdy inquires "whether or not the Police Commissioner has the authority under State law to deny inspection of material used by an interview board in connection with either applicants for appointment at entrance level or applicants for promotion".

As your letter correctly indicates, "the examination papers and other material used in determining an applicant's eligibility shall be open to inspection of the . . . applicant (for appointment or promotion)". Code of Public Local Laws of Baltimore City, Section 16-10(b) (c), subtitle "Police Department". We believe that this provision is broad enough to include all materials considered in connection with appointment or promotion but does not extend to the identity of the applicant's examiner or examiners. The term "examination papers and other material" in the statute appears to us to encompass the substantive elements that were received and considered by the examining authority in the process of reaching a conclusion as to the eligibility of the applicant. The names of the applicant's examiners are not within the meaning of the statute, in our opinion, because such identification is clearly not "material used in determining an applicant's eligibility".

Article 76A of the Annotated Code of Maryland (1971 Cumulative Supplement), title "Public Information", defines public records. The definition appearing in Section 1 (a) of the statute in no way suggests that the identification

of employment or promotional examiners is a public record. Section 3(b) (ii) goes no further than to provide for inspection of test questions, scoring keys, and other examination data of an employment examination and for the scores and results of a promotional examination after the conduct and grading of the examination.

We believe that if the Legislature had intended the identity of the examining authority to be made available to an applicant upon demand, such intention would have been reflected in terms in the statute. Correlatively, the statutory right vested in the applicant to examine his examination papers and all other materials which were considered in the determination of his eligibility for appointment or promotion, in our opinion precludes denying to him the inspection of any of these materials, including material used by an interview board, since these are necessarily considered in the determination of the eligibility of the applicant. To hold otherwise would amount to an improper and unauthorized abridgement of a right expressly conferred by the statute.

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