



The Attorney General of Texas

August 26, 1981

MARK WHITE
Attorney General

Honorable Joel V. Roberts
City Attorney
P.O. Box 4398
Odessa, Texas 79760

Open Records Decision No. 278

Re: Whether employees letter
of resignation is public
under the Open Records Act

Dear Mr. Roberts:

You have requested our decision as to whether an employee's letter of resignation must be disclosed under the Open Records Act, article 6252-17a, V.T.C.S. You have received a request for the letters of resignation of two former employees.

In Open Records Decision No. 68 (1975), this office held that a particular letter of resignation was excepted from disclosure under section 3(a)(2) of the act, as "information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The decision was based in part upon the dearth of case law in Texas to assist in determining the ambit of the right of privacy. Subsequent to that decision, the Supreme Court rendered its opinion in Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 668 (Tex. 1976) [hereinafter cited as IAB], which cast substantial doubt upon this office's expansive construction of the right of privacy. We have recently recognized the limitations imposed by IAB and have applied its rationale to section 3(a)(2) privacy. Open Records Decision Nos. 260, 257 (1980).

Open Records Decision No. 68 was also premised upon an analogy between section 3(a)(2) and section 2(g) of the Open Meetings Act, article 6252-17, V.T.C.S., which permits a governmental body to exclude the public from discussions "involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal" of an employee. The opinion failed to note, however, that whereas section 3(a)(2) affords a right to the employee, which relates to that employee's privacy, section 2(g) of the Open Meetings Act, in the words of the statute, is a prerogative of the governmental body, unrelated to any individual's claim of privacy. In view of the restrictive scope of the right of privacy which we believe is compelled by the IAB decision, and in light of the incorrect analogy to the Open Meetings Act drawn in Open Records Decision No. 68, it is our opinion that the decision should no longer be cited for the proposition that an employee's letter of resignation is excepted per

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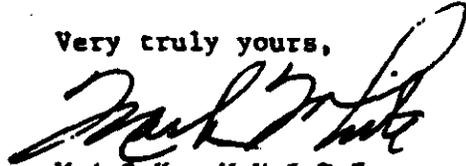
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se from public disclosure. Disclosure of certain information contained in a particular letter of resignation might constitute a "clearly unwarranted invasion of personal privacy" but in the usual instance, we do not believe it will do so. V.T.C.S. art. 6252-17a, §3(a)(2). Because of the innocuous nature of the material contained in the two letters at issue here, we do not believe that section 3(a)(2) acts to except these letters from disclosure.

Very truly yours,



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