



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

September 21, 1990

Mr. Donald J. Walheim  
Attorney for San Antonio I.S.D.  
420 South Main Avenue  
San Antonio, Texas 78204

OR90-457

Dear Mr. Walheim:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9904.

The San Antonio Independent School District (the district) received an open records request for, inter alia, "[t]he District's internal audit of the paint and body shop at Lanier High School." You contend that the audit comes under the protection of sections 3(a)(1), 3(a)(2), and 3(a)(11) of the Open Records Act.

Section 3(a)(11) of the act protects advice, opinion, or recommendation intended for use in the deliberative process. Open Records Decision No. 464 (1987). Section 3(a)(11) does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. Open Records Decision No. 450 (1986). Because the section of the audit report entitled "Findings" consists of purely factual information, you may withhold only the "Conclusion" and "Recommendations" sections of the audit report pursuant to section 3(a)(11).

Your request with regard to sections 3(a)(1) and 3(a)(2) are governed in part by Open Records Decision No. 470 (1987) (copy enclosed). The test for section 3(a)(2) protection is the same as that for information protected by common-law privacy under section 3(a)(1): to be protected from required disclosure the information must contain highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and the information must be of no legitimate concern to the public. Hubert v. Harte-Hanks Texas Newspapers, Inc., 652 S.W.2d 546 (Tex. App. - Austin, 1983, writ ref'd n.r.e.). After reviewing the documents at

issue, this office has determined that none of the audit meets this test. See, e.g. Open Records Decision No. 400 (1983) (copy enclosed).

You further contend that portions of the audit report are inaccurate and that the release of those portions would place certain individuals in a false light. We note, however, that there is nothing in the audit report that indicates on its face any inaccuracies. Further, you do not identify any specific portions of the report that you believe to be inaccurate, nor have you demonstrated to this office any basis for the district's belief that the report is inaccurate. See, e.g., Open Records Decision No. 372 (1983). Consequently, unless you demonstrate to this office, within ten days of receipt of this ruling, the basis for your belief that specific portions of the report are inaccurate and that the release of the information would place individuals in a false light, the "Findings" portion of the report must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-457.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

SG/RWP/le

Ref.: ID# 9904

Enclosures: Open Records Decision Nos. 470, 400

cc: Hollis Grizzard, Jr.  
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