



**THE ATTORNEY GENERAL
OF TEXAS**

JIM MATTOX
ATTORNEY GENERAL

December 21, 1990

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

OR90-583

Dear Mr. Walheim:

You previously asked whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. In Open Records Letter OR90-457 (1990), this office determined that the San Antonio Independent School District [the district] was entitled to withhold, pursuant to section 3(a)(11) of the act, the "Conclusion" and "Recommendations" sections of the district's internal audit of the paint and body shop of Lanier High School. We sought, however, additional information from your office as to why certain other information contained in the audit should be withheld pursuant to the false light privacy aspect of section 3(a)(1). Your most recent correspondence to this office was assigned ID# 10801.

In response to our request, you have submitted to this office an affidavit by the individual who was in charge of the audit that explains certain inaccuracies contained in that audit. However, since the time that we received the affidavit, this office has reconsidered the applicability of an exception for false light privacy in the context of the exceptions to public disclosure listed in section 3(a) of the act.

False light invasion of privacy was discussed at length in Open Records Decision No. 579 (1990) (copy enclosed). As noted in that open records decision, the gravamen of a false light privacy complaint is not that the information revealed is confidential, but that it is false. Therefore, an exception to the Open Records Act such as section 3(a)(1) that is focused on the confidentiality of information does not embrace this particular tort doctrine. Consequently, any false information contained in the "Findings" portion of the audit is not "confidential" for purposes of the Open Records Act; this portion of the audit must therefore be released in its entirety. If, however, portions of the

audit are in fact inaccurate or untrue, there is no reason that the district may not also release, along with the audit, other supplemental information that explains why and to what extent the information is inaccurate or that otherwise clarifies the information at issue.

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 OR90-583.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/RWP/le

Ref.: ID# 10801
ID# 10721
ID# 10739
ID# 10743
OR90-457

Enclosures: Open Records Decision No. 579

cc: Hollis Grizzard, Jr.
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