

January 11, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

OR99-0075

Mr. Eric Bost
Commissioner
Texas Department of Human Services
P.O. Box 149030
Austin, Texas 78714-9030

— * —
JOHN CORNYN
Attorney General

Dear Mr. Bost:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 121158.

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P.O. Box 12548
Austin, Texas
78711-2548

The Texas Department of Human Services (the "department") received an open records request from one of the department's clients for four categories of information from his department files. You state that the department will release some of the requested information to the requestor and that the department has not been able to locate some of the other requested records. You specifically seek to withhold, however, certain records pertaining to allegations that the requestor/client has sexually harassed his private service providers. You contend this information is protected from required public disclosure pursuant section 552.101 of the Government Code in conjunction with the common-law right of privacy.

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Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

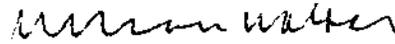
In *Industrial Foundation*, the Texas Supreme Court deemed as intimate and embarrassing information that relates to, among other things, mental or physical abuse in the workplace. 540 S.W.2d at 683. Upon review of the information at

issue, we conclude that the individuals who were subject to the alleged sexual harassment have a common-law privacy interest in withholding their identities from the public. *Cf. Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.--El Paso 1992, writ denied). We therefore conclude that the department must withhold these individuals' identities pursuant to section 552.101 of the Government Code.

Although we do not reach the issue of whether there exists a legitimate public interest in the remaining information, we nevertheless conclude that in this instance the requestor is entitled to the remaining information contained in these documents. *See Hutchins v. Texas Rehabilitation Comm.*, 544 S.W.2d 802 (Tex. Civ. App.--Austin 1976, no writ); *see also* Gov't Code § 552.023. Accordingly, except for the identities of the private service providers, the requested information must be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/RWP/ch

Ref.: ID# 112158

Enclosures: Submitted documents