



May 19, 1999

Mr. Leonard W. Peck, Jr.  
Assistant General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR99-1393

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124322.

The Texas Department of Criminal Justice ("TDCJ") received a request for the requestor's "Payroll Status Change for 2-1-99" and the "time she was put off duty on 2-1-99." You seek to withhold the requested information under section 552.103 of the act.

Section 552.103(a) excepts from required public disclosure information

- (1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and
- (2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 (1991).

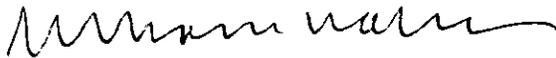
You provide copies of pleadings in *Powell v. The Texas Department of Criminal Justice*, cause No. 97-12991, 126<sup>th</sup> District Court, Travis County, in which the requestor is suing TDCJ for various alleged unlawful employment practices. The requested information appears to relate to the termination of requestor's employment with TDCJ. We conclude that

you have established that the requested information relates to the referenced litigation. Therefore, you may withhold the submitted information under section 552.103(a) subject to the following provisos.

To the extent the opposing party has seen or had access to these records, there would be no justification for now withholding such information pursuant to section 552.103(a). Open Records Decision Nos. 349, 320 (1982).<sup>1</sup> The applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982), Open Records Decision No. 350 (1982).

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.

Sincerely,



William Walker  
Assistant Attorney General  
Open Records Division

WMW/eaf

Ref.: ID# 124322

encl. Submitted documents

cc: Ms. Yvonne Powell  
Human Resources Office, Parole Division  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004  
(w/o enclosures)

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<sup>1</sup>We note particularly that it appears the requestor may have already had access to the "Sign In/Out Sheet" you submitted. If that is the case, it must therefore be released to her.