



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 9, 1996

Mr. Joe Bridges  
Assistant District Attorney  
Denton County Criminal District Attorney's Office  
127 N. Woodrow Lane  
Denton, Texas 76205

OR96-1101

Dear Mr. Bridges:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100452.

The Denton County Sheriff (the "sheriff") received a request for a copy of a certain police report. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

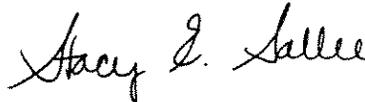
Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state is or may be a party. The sheriff has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.-Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. The sheriff must meet both prongs of this test for information to be excepted under section 552.103(a).

You have submitted to this office for review a docket sheet that indicates that the incident is the subject of pending litigation. Therefore, the sheriff has established the first prong of the section 552.103 test. After reviewing the documents, we conclude that they are related to the pending litigation. Therefore, with the exception noted below, the sheriff may withhold the requested information.

In Open Records Decision No. 597 (1991), this office concluded that, although 552.103(a) may except first-page offense report information in some circumstances, after the magistrate informs the suspect of the nature of the charge against him, there is no first page information that would not have been made known to him by the magistrate. Open Records Decision No. 597 (1991) at 3. It is clear from the submitted documents that, in this case, the suspect was arrested and appeared before a magistrate who informed him of the basic details of the alleged offense, which is the information typically found on the first page of an offense report. When the opposing party in the pending litigation has seen or had access to any of the information at issue, there is no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). Although this information is generally found on the first page of an offense report, its location is not determinative. To determine what information must be released, the type of information must be examined rather than its location. *See* Open Records Decision No. 127 (1976) at 5. Therefore, we conclude that section 552.103(a) does not in this instance except the information that generally appears on the first page of an offense report from required public disclosure.

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,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/ch

Ref.: ID# 100452

Enclosures: Submitted documents

cc: Ms. Brandie L. Krueger  
P.O. Box 81  
Haslet, Texas 76052  
(w/o enclosures)