

February 2, 1999

Mr. Lou Bright  
General Counsel  
Alcoholic Beverage Commission  
P.O. Box 13127  
Austin, Texas 78711-3127

OR99-0303



OFFICE OF THE  
ATTORNEY GENERAL  
STATE OF TEXAS

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JOHN CORNYN  
Attorney General

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P.O. Box 12548  
Austin, Texas  
78711-2548  
  
(512) 463-2100  
www.oag.state.tx.us

Dear Mr. Bright:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122178.

The Texas Alcoholic Beverage Commission (the "commission") received a request for information concerning Terry Leesman and an incident on May 17, 1998, at the Ice House in Fort Bend County. You submit to this office among other things: (1) a copy of the requested records and (2) a letter from the district attorney's office in Fort Bend County, requesting that the commission withhold from public disclosure information concerning Mr. Leesman. You also raise section 552.103 of the Government Code as an exception to disclosure, and you state that criminal charges have been filed against Mr. Leesman in Fort Bend County. We have considered the exception you claim and have reviewed the documents at issue.

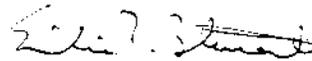
In this instance, the requested information concerns an incident that is the subject of a criminal prosecution. The district attorney has asked that the requested information concerning Mr. Leesman be withheld from public disclosure. The need of a governmental body, other than the body that is seeking an open records decision, to withhold information under section 552.108 of the Government Code may be a compelling reason for non-disclosure. Open Record Decision No. 586 (1991). We therefore conclude that section 552.108(a)(1) applies to the requested information.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). You state that you have

released some information to the requestor. You must release all of the types of information that are considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. *See* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*); *see also* Open Records Decision No. 597 (1991) (basic information in an offense report generally may not be withheld under section 552.103). We therefore conclude that, except for front page offense report information, section 552.108 of the Government Code exempts the requested records from required public disclosure, although you may choose to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.<sup>1</sup> We have enclosed a summary of Open Records Decision No. 127 to assist you in determining the information that must be disclosed.

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,



Emilie F. Stewart  
Assistant Attorney General  
Open Records Division

EFS\nc

Ref: ID# 122178

Enclosures: Submitted documents  
Summary of ORD 127

cc: Mr. Logene Foster  
The Foster Law Firm  
P.O. Drawer 618  
Sugarland, Texas 77487  
(w/o enclosures)

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<sup>1</sup>Because we are able to make a determination under section 552.108, we do not address your argument under section 552.103.