



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 27, 2014

Mr. Steven E. Meyer  
Assistant City Attorney  
Arlington Police Department  
P.O. Box 1065, Mail Stop 04-0200  
Arlington, Texas 76004-1065

OR2014-01528

Dear Mr. Meyer:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 511939 (Arlington PD Ref. Nos. 13254, 13372, 13426, 13429, 13430, 13431, 13432, 13434, 13435, 13437, 13438, 13439, 13440, 13448, 13456, 13463, and 13487).

The Arlington Police Department (the "department") received seventeen requests from different requestors for information pertaining to a specified incident. You state the department has released some of the requested information to the requestors. You claim the remaining requested information is excepted from disclosure under sections 552.101, 552.108, 552.1085, and 552.130 of the Government Code. You also state the release of some of the requested information may implicate the interests of Six Flags Entertainment Corporation ("Six Flags"). Accordingly, you state, and provide documentation which demonstrates, the department notified Six Flags of the request for information and of its right to submit arguments stating why their information should not be released. *See Gov't Code* § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup> We have also reviewed and considered comments submitted by a representative of Six Flags and a representative of one of the requestors. *See Gov't Code*

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<sup>1</sup>This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. *See Gov't Code* §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

§ 552.304 (interested third party may submit comments stating why information should or should not be released).

Initially, you state some of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2013-18195 (2013). In that ruling, we determined the following: (1) the department must withhold certain responsive information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code; (2) with the exception of the basic information, the department may withhold the responsive information it marked under section 552.108(a)(1) of the Government Code; and (3) the department must release the responsive basic information. With respect to the information we ruled must be withheld under section 552.101 in conjunction with section 418.181, there is no indication the law, facts, or circumstances on which this portion of the prior ruling was based have changed. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). Accordingly, the department must continue to rely on Open Records Letter No. 2013-18195 as a previous determination and withhold the information subject to section 552.101 in conjunction with section 418.181 in accordance with that ruling. However, you inform us the circumstances have changed with respect to the information we previously ruled may be withheld under section 552.108(a)(1) because the case has since concluded. Thus, the department may not rely on Open Records Letter No. 2013-18195 as a previous determination regarding that information. *See id.* Accordingly, we will consider the arguments against disclosure of the information at issue not subject to the previous ruling.

Section 552.108(a)(2) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: . . . (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information at issue pertains to a criminal case that concluded in a result other than conviction or deferred adjudication. Based on your representation, we agree section 552.108(a)(2) is applicable to the information at issue.

We note, however, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Basic information refers to the information held to be public in *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). *See also* Open Records Decision No. 127 (1976) (summarizing

the types of information considered to be basic information). Thus, with the exception of the basic information, the department may withhold the information at issue under section 552.108(a)(2).<sup>2</sup>

In summary, the department must continue to rely on Open Records Letter No. 2013-18195 as a previous determination and withhold the information subject to section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code in accordance with that ruling. With the exception of the basic information, which must be released, the department may withhold the information at issue under section 552.108(a)(2) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/tch

Ref: ID# 511939

Enc. Submitted documents

c: Seventeen Requestors  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments or the arguments of Six Flags, except to note that basic information described in *Houston Chronicle* does not include information subject to section 552.130 of the Government Code.

Mr. Paul Tipton  
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(w/o enclosures)