



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 27, 2012

Mr. James G. Nolan
Open Records Attorney
Open Records Division
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2012-15447

Dear Mr. Nolan:

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# 466293 (CPA ID# 8415745026).

The Texas Comptroller of Public Accounts (the "comptroller's office") received a request for information pertaining to unclaimed funds transferred by the Texas Department of Criminal Justice Parole Division (the "department") to the Victims of Crime Auxiliary Fund. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.1325 of the Government Code. You also state release of the requested information may implicate the proprietary interests of the department. Accordingly, you notified the department of the request for information and of its rights to submit arguments to this office as to why the information should not be released. We have received comments from the department. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered submitted arguments and reviewed the submitted representative sample of information.¹

Initially, we note the department argues against the release of information that was not submitted by the comptroller's office. This ruling does not address information that was not

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

submitted by the comptroller's office and is limited to the information the comptroller's office has submitted for our review. *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested).

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 508.313 of the Government Code, which provides in relevant part:

(a) All information obtained and maintained [by the Texas Department of Criminal Justice], including a victim protest letter or other correspondence, a victim impact statement, a list of inmates eligible for release on parole, and an arrest record of an inmate, is confidential and privileged if the information relates to:

(1) an inmate of the institutional division [of the Texas Department of Criminal Justice] subject to release on parole, release to mandatory supervision, or executive clemency;

(2) a releasee; or

(3) a person directly identified in any proposed plan of release for an inmate.

...

(c) The [Texas Department of Criminal Justice], on request or in the normal course of official business, shall provide information that is confidential and privileged under Subsection (a) to:

(1) the [Office of the Governor];

(2) a member of the board or a parole commissioner;

(3) the Criminal Justice Policy Council in performing duties of the council under Section 413.017 [of the Government Code]; or

(4) an eligible entity requesting information for a law enforcement, prosecutorial, correctional, clemency, or treatment purpose.

(d) In this section, "eligible entity" means:

(1) a government agency, including the office of a prosecuting attorney[.]

...

(f) This section does not apply to information that is subject to required public disclosure under Section 552.029.

Id. § 508.313(a), (c), (d)(1), (f). The department asserts the submitted information is held by the department's Parole Division as part of information about each person released from prison on mandatory supervision or parole who has been ordered to pay restitution. The comptroller's office explains the department is required to provide the information at issue to the comptroller's office under section 508.322(e) of the Government Code. *See id.* § 508.322(e) (unclaimed victim restitution funds that remains unclaimed after five years shall be transferred to victims of crime auxiliary fund). Upon review of the submitted arguments and the information at issue, we agree that this information is subject to section 508.313. The department states the requestor is not an entity authorized to obtain the information at issue under section 508.313(c). The department also states the information at issue is also not made public under section 552.029 of the Government Code. *See id.* § 508.313(f). We therefore conclude that the comptroller's office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.²

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

²As our ruling is dispositive, we need not address the remaining arguments against disclosure.

Ref: ID# 466293

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)