



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 2, 1998

Mr. John B. Dahill
Advisory Chief
Dallas County District Attorney's Office
Administration Building
411 Elm Street
Dallas, Texas 75202

OR98-2091

Dear Mr. Dahill:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118749.

The City of Dallas Police Department has received a request for "any and all records of complaints made concerning alleged violations of Tex. Trans. Code §§ 728.001-728.004 and any and all records of communications with automobile dealers and/or automobile dealers associations concerning Tex. Trans. Code §§ 728.001-728.004 for the years 1984 to the present date." You have submitted records responsive to the request but contend that, pursuant to Government Code section 552.101 in conjunction with the informer's privilege, they may be withheld, or at least redacted so as not to reveal the complainants' identities.

Section 552.101 excepts from required disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 incorporates the "informer's privilege." This privilege has been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). In *Roviaro v. United States*, 353 U.S. 53, 59 (1957), the United States Supreme Court explained the rationale that underlies the informer's privilege:

What is usually referred to as the informer's privilege is in reality the Government's privilege to withhold from disclosure the identity of persons who furnish information of *violations of law to officers charged with enforcement of that law*. [Citations omitted.] The purpose of the privilege is the furtherance and protection of the public interest in effective law enforcement. The privilege recognizes the

obligation of citizens to communicate their knowledge of the commission of crimes to law-enforcement officials and, *by preserving their anonymity*, encourages them to perform that obligation. [Emphasis added.]

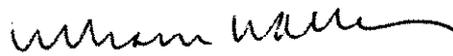
See also e.g. Open Records Decision Nos. 515 (1988), 549 (1990). The privilege includes protection of the identities of those who report violations of statutes with civil penalties to officials with enforcement authority. Open Records Decision No. 515 at 2.

Here, the requested information consists of reports to the district attorney of violations of the provisions of the Transportation Code prohibiting motor vehicle dealers from selling or offering to sell vehicles on consecutive Saturdays and Sundays. Transportation Code sec. 728.002. Civil penalties attach to these violations. *Id.* sec. 728.003. Also, district, county, and municipal attorneys, as well as the attorney general, may seek injunctive relief. *Id.* sec. 728.004.

We find that you have made a sufficient showing that the identities of the informants in the records you submitted may be protected under the informer's privilege. You have not shown, however, that the information in the records as a whole would tend to identify the informants such that the records must be withheld in their entirety in order to protect the informants' identities. *See e.g.* Open Records Decision No. 549 at 5. We have marked the records to redact identifying information. You must release the rest of the requested information.

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,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

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Enclosures: Marked documents

cc: Ms. Jayne L. Jakubaitis
Arter & Hadden
1100 Huntington Building
925 Euclid Avenue
Cleveland, Ohio 44115-1475
(w/o enclosures)