



May 20, 1999

Mr. Matthew R. Scott
Cooper & Scully
900 Jackson Street, Suite 100
Dallas, Texas 75202

OR99-1406

Dear Mr. Scott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125997.

The City of Coppell received a request for information in an incident report. You seek to withhold a portion of the requested information under sections 552.101 and 552.127 of the Government Code.

Section 552.101 protects, *inter alia*, information made confidential by judicial decision. The informer's 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.]

The "informer's privilege" aspect of section 552.101 protects the identity of persons who report violations of the law. When information does not describe conduct that violates the law, the informer's privilege does not apply. Open Records Decision Nos. 515 (1988) 191 (1978). Although the privilege ordinarily applies to the efforts of law enforcement agencies, it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 285, 279 (1981); *see also* Open Records Decision No. 208 (1978). This may include enforcement of quasi-criminal

civil laws. Open Records Decision Nos. 515 (1988) 391 (1983). The privilege does not, however, protect the contents of communications if they do not reveal the identity of the informant. *Roviaro* 353 U.S. at 60. Because part of the purpose of the privilege is to prevent retaliation against informants, the privilege does not apply when the informant's identity is known to the individual who is the subject of the complaint. *See* Open Records Decision No. 208 (1978).

You have marked the information which you seek to withhold under the informer's privilege. Having reviewed the information and your arguments, we conclude that you may withhold under the informer's privilege the portions of the information you have marked.¹

We note that the submitted information also contains license plate numbers. Section 552.130 of the Government Code provides in relevant part as follows:

(a) Information is excepted from [public disclosure] if the information relates to:

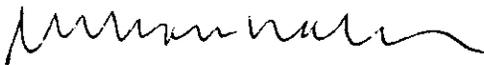
(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

You must withhold the license plate numbers under section 552.130. Except as noted above, the requested information must be released.

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.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

¹Since we have resolved the issue as to disclosure of the informant's identity under the informer's privilege, we do not address your claim for withholding that information under section 552.127.

Mr. Matthew R. Scott - Page 3

WMW/eaf

Ref.: ID# 125997

encl. Submitted documents

cc: Mr. Rick Novack
158 East Bethel
Coppell, Texas 75019
(w/o enclosures)