



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 31, 1995

Mr. Jerry E. Drake, Jr.  
Assistant City Attorney  
City of Denton  
215 E. McKinney  
Denton, Texas 76201

OR95-045

Dear Mr. Drake:

You asked whether certain information is subject to required public disclosure under the Texas Open Records Act, Chapter 552 of the Government Code. Your request was assigned ID# 28891.

The City of Denton (the "city") received an open records request for the names of individuals who reported violations of the city's leash law allegedly committed by the requestor and his neighbor. Specifically, the requestor seeks information which is considered evidence relating to criminal litigation involving the state as prosecutor. You contend that the requested information is excepted from public disclosure in accordance with sections 552.103 and 552.101 of the Government Code.

On the basis of Open Records Decision No. 515 (1988) and *Roviaro v. United States*, 353 U.S. 53 (1957), this office has held the informer's privilege applicable to communications made to law enforcement officials regarding the alleged commission of a crime. In Open Records Decision No. 279, this office concluded that the identity of a person who reports a zoning violation is excepted from disclosure by the statutory predecessor to section 552.101, as information deemed confidential by the informer's privilege.

In *Westinghouse Electric Corporation v. City of Burlington*, 351 F.2d 762 (D.C.Cir. 1965), the court discussed the rationale of the privilege:

The purpose of the privilege is not to protect the particular informer from retaliation, but to protect the flow of information to the government. It rests on the assumption that a citizen, recognizing the risk of retaliation, will be more likely to inform if he knows that his identity will be kept secret. The privilege is maintained to encourage possible informers in the future by giving them some assurance of anonymity.

We have examined the information that you seek to withhold under section 552.101 and agree that it may be withheld pursuant to section 552.101 of the Government Code. We have marked the information accordingly.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. The ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll  
Assistant Attorney General  
Open Government Section

MAR/SAB/rho

Ref.: ID# 28891

Enclosures: Marked documents

cc: Mr. Richard H. Wells  
2201 Emerson  
Denton, Texas 76201  
(w/o enclosures)