



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 24, 1996

Mr. John A. Riley
Director, Legal Support Division
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR96-0799

Dear Mr. Riley:

You ask 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# 39681.

The Texas Natural Resource Conservation Commission (the "commission") received an open records request for "all the information concerning a complaint filed against Pipes Chevrolet-Pontiac, Inc." You contend that the commission may withhold pursuant to the informer's privilege certain information tending to reveal the complainant's identity.¹

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.

¹Because you make no argument with regard to any other information, we assume the commission intends to release all other responsive documents.

The informer's privilege, as incorporated into section 552.101 of the Government Code², protects the identity of persons who report violations of the law to officials responsible for enforcing those laws. The privilege does not protect the contents of communications if they do not reveal the identity of the informant. *Roviaro*, 353 U.S. at 60. You have demonstrated to this office that the individual whose identity you seek to protect reported potential violations of state law, which carry criminal penalties. Assuming that this individual's identity has not been previously revealed to the requestor, this office agrees that the commission may withhold the information you have marked pursuant to the informer's privilege.

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,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/RWP/rho

Ref.: ID# 39681

Enclosure: Submitted document

cc: Mr. Tommy Pipes
General Manager
Pipes Chevrolet-Pontiac, Inc.
P.O. Box 89
Dilley, Texas 78017
(w/o enclosure)

²Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."