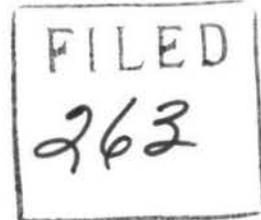


May 5, 1971

OPINION LETTER NO. 263
Answer by Letter - Klaffenbach

Honorable Richard M. Webster
Missouri State Senate
Room 429, State Capitol
Jefferson City, Missouri 65101



Dear Senator Webster:

This letter is in answer to your request for an opinion respecting the following statement and questions presented to you by one of your constituents:

"In Newton County nearly all misdemeanor cases are handled by the Magistrate Court. The Uniform Traffic Ticket is not used as an information but, instead, a separate information is drawn for each case. All copies of the Uniform Traffic Ticket are attached to the information, as is a copy of the arresting officer's report to the Prosecuting Attorney when the case is filed in the Magistrate Court by the Prosecuting Attorney. The Uniform Traffic Ticket is used pursuant to RSMo. 302.225 to notify the Director of Revenue so that a person's points against his driver's license can be computed. The copy of the Arrest Report to Prosecuting Attorney is read by the Judge after a plea of guilty is entered.

"The problem that presents itself is that it is the contention of the Magistrate Judge that only his docket sheet and the information are matters of public record and that a copy of the Officer's Report to the Prosecuting Attorney, which is used after a plea of guilty, and the Uniform Traffic Ticket, which is sent to the Director of Revenue, are not.

Honorable Richard M. Webster

"This procedure makes it impossible for area newspapers to obtain addresses of defendants convicted in the Magistrate Court. As a result, newsmen go to the Prosecuting Attorney to obtain this information from his files.

Specifically, we would like an opinion on the following, based on the facts set out above:

- 1) Are the Uniform Traffic Tickets, which are not used as informations but only used to inform the Director of Revenue with respect to points, a Public Record when attached to an information when filed in the Magistrate Court?
- 2) Is the Officer's Report to Prosecuting Attorney, which is attached to an information when it is filed in the Magistrate Court, Public Record?
- 3) Is the Prosecuting Attorney under a duty to the press to disclose addresses of defendants charged or convicted of traffic offenses?
- 4) Is the Magistrate Judge or his Clerk under a duty to the press to disclose the names and addresses of persons charged or convicted of traffic offenses, and other misdemeanors, when they have access to this information?"

Your informant has noted Sections 109.180 RSMo 1969 and 302.225 RSMo 1969.

Section 109.180 relating to the disclosure of public records states:

"Except as otherwise provided by law, all state, county and municipal records kept pursuant to statute or ordinance shall at all reasonable times be open for a personal inspection by any citizen of Missouri, and those in charge of the records shall not refuse the privilege to any citizen. Any official who violates the provisions of this section shall be subject to removal or impeachment and in addition shall be deemed guilty of a misdemeanor and upon con-

Honorable Richard M. Webster

viction shall be punished by a fine not exceeding one hundred dollars, or by confinement in the county jail not exceeding ninety days, or by both the fine and the confinement."

Section 302.225 relating to records of convictions states:

"1. Every court having jurisdiction over offenses committed under this chapter, or any other law of this state, or county or municipal ordinance, regulating the operation of vehicles on highways, shall, within ten days thereafter, forward to the director upon forms furnished by the director a record of the conviction of any person in the court for a violation of this chapter or for any moving traffic violation under the laws of this state or county or municipal ordinances.

"2. Whenever any person is convicted of any offense or series of offenses for which this chapter makes mandatory the suspension or revocation of the operator's or chauffeur's license of such person by the director, the circuit court or magistrate court in which such conviction is had shall require the surrender to it of all operator's and chauffeur's licenses, then held by the person so convicted, and the court shall within ten days thereafter forward the same, together with a record of the conviction, to the director.

"3. No municipal court or municipal official shall have power to revoke any operator's license or chauffeur's license."

We understand from the question that the inspection issue involves only post-conviction inspection and therefore limit our views accordingly.

Supreme Court Rule 37.01 provides that Rules 37.46-37.50, pertaining to traffic cases, shall also apply to magistrate and certain other courts in all traffic cases in which such courts have original jurisdiction.

Rule 37.46 states:

"(a) Form. In Traffic Cases, the complaint or information and summons shall be in the form, known as the "Uniform Traffic Ticket" substantially the

Honorable Richard M. Webster

same as set out in Rule 37.1162, such form to be used as is applicable and in accord with the law of the particular jurisdiction. The Uniform Traffic Ticket shall consist of four parts: (1) the complaint or information printed on white paper; (2) the abstract of court record for state licensing authority which shall be a copy of the complaint or information printed on yellow paper; (3) the police record, which shall be a copy of the complaint or information printed on pink paper; and (4) the summons printed on white stock. Their reverse sides shall be set out in said form, with such additions or deletions as are necessary to adapt the Uniform Traffic Ticket to the jurisdiction involved except that where a municipality or municipal or magistrate's court has established a Violations Bureau, the court may determine which offenses may be heard by the court only. The notice and appearance, plea of guilty and waiver shall be printed on the summons.

"(b) When Used. The complaint or information form shall be used in Traffic Cases, whether the complaint is made by a peace officer or by any other person or the information is made by the prosecutor.

"(c) Reports. Every officer receiving Uniform Traffic Tickets from any magistrate or judge or clerk of any court, or from any governmental agency authorized by law or these rules to issue such Uniform Tickets, or to which such authority is delegated by any court, shall report to such issuing authority, the disposition of all such Uniform Tickets so received and shall be responsible to such court or judge or agency for their proper use and disposition."

Rule 37.466 provides that nothing in Rule 37.46 shall prevent the filing of a more detailed information or an amended information by the prosecuting attorney. Your question notes in this instance that the prosecutor files a separate information with the ticket.

For your information we enclose our opinions No. 56, dated February 2, 1965 to Parrish, No. 2, dated March 5, 1963 to Bates, and No. 90, dated April 27, 1953 to Turnbull.

Honorable Richard M. Webster

We have noted that Section 302.225 requires the court to send a record of conviction to the director of revenue. It is our understanding that part (2) of the Uniform Traffic Ticket, which is by Supreme Court Rule an abstract of the court record, is accepted by the director of revenue under Section 302.225. Accordingly such a record is a public record and open to public inspection.

We are also of the view the conclusions we reached in the enclosed opinions with respect to arrest and investigation reports apply in this instance to reports made to the prosecuting attorney by the police and that such reports are not records open to general public inspection.

In answer to the third and fourth questions concerning whether the prosecuting attorney and the magistrate judge or his clerk are under a duty to disclose the names and addresses of persons charged or convicted of traffic offenses or other misdemeanors, we know of no statute or rule imposing such a duty and do not believe that such a duty can be implied.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosures:

Opinion No. 56, 2/2/65, Parish
Opinion No. 2, 3/5/63, Bates
Opinion No. 90, 4/27/53, Turnbull