



November 8, 1999

Ms. Lilia Ledesma-Gonzalez
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR99-3169

Dear Ms. Ledesma-Gonzalez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129191.

The City of McAllen (the "city") received a request for the names, addresses, and phone numbers of persons receiving citations for moving violations in the city during the period beginning July 1, 1999 and ending August 18, 1999. You indicate that you have released the "basic" information concerning these citations. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. You have submitted a representative sample of the responsive information to this office for review.¹ We have considered the exception you claim and reviewed the submitted information.

Government Code section 552.101 excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. This section encompasses the common-law right to privacy. The common-law right to privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). You have supplied a computer printout, listing responsive names, phone numbers, addresses, dates and types of violations. We note that most of this information is "basic" offense information and therefore has been released. Furthermore, we do not consider the information on this print-out to be of the type protected by the common-law right of privacy.

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

The information may therefore, not be withheld under section 552.101 of the Government Code.

You indicate that the information was compiled for this requestor and “does not exist in an open record form of document.” However, section 552.228(b) of the Government Code requires a governmental body to provide a copy of requested information stored on electronic medium if the governmental body has the technological ability to produce the copy without purchasing software or hardware to accommodate the request. As you have supplied such a copy to this office for review, we conclude that you have that ability and the information must therefore be made available to the requestor.

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,

A handwritten signature in black ink, appearing to read "Michael Jay Burns". The signature is fluid and cursive, with the first name "Michael" being the most prominent part.

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 129191

Encl. Submitted documents

cc: Mr. Timothy Olabarietta
2213 North 23 Street
McAllen, Texas 78501
(w/o enclosures)