



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 10, 1997

Mr. G. Chadwick Weaver
First Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR97-1559

Dear Mr. Weaver:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107248.

The City of Midland (the "city") received a request for "a copy of the Police Report concerning the death of Mr. Stanley C. Williams." You contend that the highlighted portions of the report are protected from disclosure by the decedent's common-law right to privacy. We disagree.

Section 552.101 excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. Information may be withheld under section 552.101 in conjunction with the common-law right to privacy only if the information is highly intimate or embarrassing *and* it is of no 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).

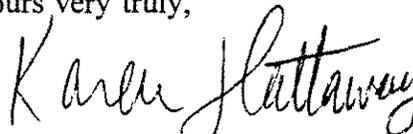
Section 552.101 also excepts information that is confidential under constitutional privacy. Constitutional privacy consists of two interrelated types of privacy: (1) the right to make certain kinds of decisions independently, and (2) an individual's interest in avoiding disclosure of personal matters. Open Records Decision No. 455 (1987) at 4. The first type protects an individual's autonomy within "zones of privacy" which include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. *Id.* The second type of constitutional privacy requires a balancing between the individual's privacy interests and the public's need to know information of public concern. *Id.*

However, common-law and constitutional privacy rights generally lapse upon the death of the subject. Attorney General Opinion H-917 (1976) at 3-4; Open Records Decision Nos. 432

(1985) at 3-6, 272 (1981) at 1. We find that there is no privacy interest in this case. Therefore, we conclude that the city must release the requested police report in its entirety.

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 107248

Enclosures: Submitted documents

cc: Mr. Hal L. Kempf, Esq.
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(w/o enclosures)