



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 9, 2011

Mr. Peter Scott
Assistant City Attorney
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76307

OR2011-06359

Dear Mr. Scott:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 417084 (City ID# 48).

The City of Wichita Falls (the "city") received a request for (1) schools, childcare facilities, youth centers, or city parks considered for enforcement of "Child Safe Zones;" (2) policy information related to the list in item (1); (3) information showing when a specified day care was added to the list in item (1); (4) information regarding when a named individual established residency at a specified address; (5) information regarding when the named individual registered as a sex offender; and (6) the city policy regarding sex offender registration. You state some of the requested information has been released to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You state the submitted information relates to a sex offender who is subject to registration under chapter 62 of the Code of Criminal Procedure. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as article 62.005(b) of the Code of Criminal Procedure. Article 62.051 requires a sex offender registrant to provide the following information for the Department of Public Safety ("DPS") sex offender registration database: the person's full name; each alias; date of birth; sex; race; height; weight; eye color; hair color; social security number; driver's license number; shoe size; home address; a recent color photograph, or if possible, an electronic image of the person; a complete set of fingerprints; the type of offense the person was convicted of; the age of the victim; the

date of conviction; the punishment received; an indication as to whether the person is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision; an indication of each license, as defined by article 62.005(g), that is held or sought by the person; an indication as to whether the person is or will be employed, carrying on a vocation, or a student at a particular public or private institution of higher education in this state or another state, and the name and address of that institution; the identification of any online identifier established or used by the person; and any other information required by DPS. *See* Crim. Proc. Code art. 62.051(c); *see also id.* art. 62.001(11) (as added by Act of June 19, 2009, 81st Legislature, R.S., ch. 755, § 2, 2009 Tex. Sess. Law Serv. 1905, 1906) (defining "online identifier"). This information is public information with the exception of the person's social security number, driver's license number, telephone number, the identification of any online identifier established or used by the person, all information required by DPS outside of the enumerated categories of information, and any information that would identify the victim of the offense for which the person is subject to registration. *See id.* art. 62.005(b). Accordingly, the city must withhold or release the submitted information in accordance with article 62.005(b) of the Code of Criminal Procedure. A specific statutory right of access generally prevails over the common law. *See Cash Am. Int'l Inc. v. Bennett*, 35 S.W.3d 12, 16 (Tex. 2000) (statute abrogates common-law principle only when its express terms or necessary implications clearly indicate Legislature's intent to do so and requires clear repugnance between common-law and statutory causes of action); *CenterPoint Energy Houston Elec. LLC v. Harris County Toll Road*, 436 F.3d 541, 544 (5th Cir. 2006) (common-law controls only where there is no conflicting or controlling statutory law).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tamara Wilcox
Assistant Attorney General
Open Records Division

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Enc. Submitted documents

c: Requestor
(w/o enclosures)