



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 27, 2014

Mr. Brian L. Rose  
Assistant General Counsel  
Harris County District Attorney's Office  
1201 Franklin, Suite 600  
Houston, Texas 77002-1901

OR2014-19309

Dear Mr. Rose:

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# 540816.

The Harris County District Attorney's Office (the "district attorney's office") received a request for all e-mails between a named district attorney's office employee and a named former Houston Police Department officer and homicide detective. You state the e-mails sent from the named employees that pertain to the official business of the district attorney's office have been released to the requestor. You claim the submitted information is not subject to the Act. We have considered your arguments and reviewed the submitted information.

You contend the submitted information is not subject to the Act. The Act is applicable only to "public information." *See* Gov't Code § 552.021. Section 552.002(a) defines "public information" as

information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
  - (A) owns the information;
  - (B) has a right of access to the information; or
  - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

*Id.* § 552.002. Thus, virtually all the information in a governmental body's physical possession constitutes public information and is subject to the Act. *Id.*; see Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You state the submitted information consists entirely of personal e-mails. You also indicate the submitted information does not pertain to official business of the district attorney's office. Based on your representations and our review of the submitted information, we find the majority of the submitted information does not constitute public information for purposes of section 552.002 of the Government Code. See Open Records Decision No. 635 at 4 (1995) (section 552.002 not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). Therefore, this information is not subject to the Act, and the district attorney's office need not release it in response to this request. However, we conclude the remaining e-mails, which we have marked, were written, produced, collected, assembled, or maintained in connection with the transaction of official business by employees of the district attorney's office in their official capacities. Thus, those e-mails are subject to the Act. Because you have raised no exceptions for this information, it must be released.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Abigail T. Adams". The signature is written in a cursive, flowing style.

Abigail T. Adams  
Assistant Attorney General  
Open Records Division

ATA/ac

Ref: ID# 540816

Enc. Submitted documents

c: Requestor  
(w/o enclosures)