



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 30, 2017

Ms. Elizabeth Stevens
Assistant General Counsel
Office of the District Attorney
Harris County District Attorney
1310 Prairie Street, Suite 500
Houston, Texas 77002

OR2017-27258

Dear Ms. Stevens:

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# 686340.

The Harris County District Attorney's Office (the "district attorney's office") received a request for all e-mail communications among three named individuals during a specified period of time. You claim the submitted information is not subject to the Act. We have considered the submitted argument and reviewed the submitted information.

You argue the submitted information is not subject to the Act. The Act is applicable only to "public information." See Gov't Code §§ 552.002, .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. Information is “in connection with the transaction of official business” if it is “created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a government function on behalf of a governmental body, and pertains to official business of the governmental body.” *Id.* § 552.002(a-1). 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 explain the submitted information consists of a personal e-mail sent or received by a former district attorney's office employee related to a personal matter. You further explain the communication does not relate to the transaction of official business of the district attorney's office. We understand use of the district attorney's office's resources to create and maintain the submitted information was *de minimis*. See Open Records Decision No. 635 (1995) (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). Based on your representations and our review of the information at issue, we agree the submitted information does not constitute “information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business” by or for the district attorney's office. See Gov't Code § 552.002. Thus, the submitted information is not subject to the Act and need not be released in response to the present request for information.

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, 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, appearing to read 'Jahna Ward', with a stylized flourish at the end.

Jahna Ward
Assistant Attorney General
Open Records Division

JW/tdw

Ref: ID# 686340

Enc. Submitted documents

c: Requestor
(w/o enclosures)