



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 19, 2011

Mr. Scott A. Durfee  
Assistant General Counsel  
Office of the District Attorney  
Harris County  
1201 Franklin, Suite 600  
Houston, Texas 77002

OR2011-18619

Dear Mr. Durfee:

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# 440197.

The Harris County District Attorney's Office (the "district attorney") received a request for (1) the disciplinary records, evaluation counseling, prosecutor evaluations, reprimands, interoffice memoranda, employment application, resume, curriculum vitae, and trial bureau contested matters report(s) related to a named individual and (2) all e-mails to or from that named individual regarding non-Harris County ("county") business and using county computers. You state information responsive to the first category of the request has been made available to the requestor. You claim the remaining requested information is not subject to the Act. We have considered the submitted arguments and reviewed the submitted information.

We address your contention the submitted e-mails are not subject to the Act. The Act is only applicable to "public information." *See* Gov't Code § 552.021. Section 552.002(a) defines public information as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." *Id.* § 552.002(a). You state the submitted e-mails consist of personal e-mails that do not relate to the transaction of official county business. *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). You further state these e-mails represent the employee's personal use of his county e-mail account under the county's electronic communications policy. Upon review of the submitted e-mails, we agree they do not constitute "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for the district attorney. *See* Gov't Code § 552.021. Thus, we conclude the submitted e-mails are not subject to the Act, and need not be released in response to this request.

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](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,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 440197

Enc. Submitted documents

c: Requestor  
(w/o enclosures)