



U.S. MERIT SYSTEMS PROTECTION BOARD

Office of the Chairman
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Chairman

January 21, 2009

FOIA Tracking No. CB10-80

Charlotte Yee
39120 Argonaut Way 305
Fremont, CA 94538

Dear Ms. Yee:

This responds to your January 20, 2010, Freedom of Information Act (FOIA) Appeal. For the reasons set forth below, I am granting your appeal.

You requested that the Merit Systems Protection Board (MSPB) provide you access to the database used to create the case processing statistics presented in the MSPB's annual reports for fiscal years 2007 and 2008, cross-tabulated and referenced by administrative judge and docket number. The Clerk of the Board provided you with the MSPB records that it used to compile the case processing statistics for the MSPB's FY 2007 and FY 2008 annual reports. The records used as the basis for the annual reports do not contain the docket numbers or names of the administrative judges in appellate jurisdiction cases. As a result, the Clerk stated that the MSPB did not have such a record.

You, however, disputed the Clerk's statement based on the fact that some of the records provided to you contained docket numbers and names. The records provided to you containing docket numbers and names relate to original jurisdiction, not appellate jurisdiction, cases. The names listed are the appellants' names, not those of the administrative law judges who adjudicated the original jurisdiction appeals. As noted above, the records used by the Clerk of the Board to compile the statistics for the annual reports did not rely on an MSPB record containing the docket numbers and names of administrative judges in appellate jurisdiction cases.

In your appeal, you reiterate your request for the underlying data relating to the FY 2007 and FY 2008 case processing statistics cross-tabulated by administrative judge and docket number. The Clerk's Office correctly informed you that the MSPB did not use such data to produce its annual reports for FY 2007 and FY 2008. However, after further review of your FOIA request, we will grant your appeal. Although the data the Clerk's office relied upon in compiling the FY 2007 and FY 2008 case processing statistics did not contain the names of administrative judges or docket numbers for

appellate jurisdiction cases, such information for FY 2007 and FY 2008 can be compiled. The MSPB will provide this information to you in Excel format on a compact disc. The Excel spreadsheet will contain the docket number, agency, case type, appeal type, closing code and name of the administrative judge for the appellate jurisdiction cases closed in fiscal years 2007 and 2008. The MSPB will mail the compact disc to you within 7 business days of the date of this letter.

This is the MSPB's final decision in your FOIA appeal. You have the right to seek judicial review of this decision in an appropriate United States district court pursuant to 5 U.S.C. § 552(a)(4)(B). Any request for judicial review must be filed within six years of the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Susan Tsui Grundmann', with a horizontal line extending to the right.

Susan Tsui Grundmann