



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 28, 2006

Ms. Michele L. Henricks
Director
Court Reporters Certification Board
P. O. Box 13131
Austin, Texas 78711-3131

OR2006-09969

Dear Ms. Henricks:

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# 256481.

The Court Reporters Certification Board (the "board") received a request for 1) copies of all complaints submitted to the board from July 2005 to the present, along with the resolution of those complaints; 2) all e-mails from board members to and from a named individual from January 1, 2006 to the present; and 3) all handwritten notes taken by board members and staff during the last board meeting. You state that the board has released a portion of the requested information. You claim that the board is not subject to the Act. Alternatively, you claim that the submitted information is excepted from disclosure under sections 552.103, 552.107, 552.111, and 552.137 of the Government Code.

You argue that the board is a judicial agency that serves an administrative function for the state's courts. As such, you assert that the records of the board are governed by Rule 12 of the Rules of Judicial Administration. In making your assertions, you acknowledge that in Open Records Decision No. 527 (1989), this office ruled that the board was a governmental body subject to the Act. You state that at the time of that ruling, the board had its own agency code, three FTEs, and its own appropriation. Effective September 1, 2003, however, the Seventy-eighth Legislature enacted section 52.0131 of the Government Code, which administratively attached the board to the Office of Court Administration (the "OCA"), a judicial agency subject to Rule 12. See *Tex. R. Jud. Amin 12.2(b)* (defining "judicial

agency” for purposes of Rule 12). You state that the board’s appropriation and full-time equivalent positions were transferred to the OCA during this legislative session. You also state that the board’s activities and information are entered using the OCA’s agency number. You further state that the board is part of the OCA’s strategic plan and appropriation pattern. Finally, you have provided a list of functions and support that the board receives from the OCA. You argue that since the board has been administratively absorbed into the OCA, it is now an agency of the judiciary and is not subject to the Act. Based on your representations, we agree that the board is an agency of the judiciary and is governed by rules adopted by the Supreme Court of Texas. Thus, public disclosure of the requested information is governed by Rule 12, not the Act. *See* Gov’t Code § 552.0035(a) (providing that access to judicial records is governed by rules adopted by the Supreme Court); *see also* Tex. R. Jud. Admin. 12.2(d) (defining “judicial record”). This office does not address questions under those rules. *See* Tex. R. Jud. Admin. 12.9 (providing procedures for appeal of denial of access to judicial records with the Administrative Director of the Office of Court Administration). Therefore, the Act does not require the board to release the requested information, and we need not address your arguments under the Act.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

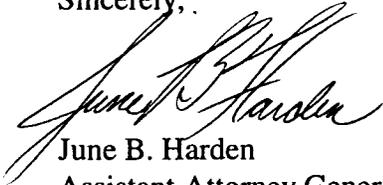
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/krl

Ref: ID# 256481

Enc. Submitted documents

c: Mr. Andrew Rivera
903 Romeria #105
Austin, Texas 78757
(w/o enclosures)