

Hello Public Records Request,

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Message:

Under the Massachusetts public records law, please provide the following information.

The web browsing history and sites visited for James Kreidler, Cindy King, Gordon Clark, Kelly Merrill and Carolyn Smart from any town own computer , cell phone or any other such town own media device which both parties have access to, from 1/1/2017 to 1/8/2018.

Please note that web browsing history is a matter of public record. see case below/

THE STATE'S SUPERVISOR of public records says a state employee's web browsing history is a public record, and has asked Attorney General Maura Healey to order the Baker administration to turn the information over to a reporter.

The case represents another attempt by state officials to determine what a public record is in an increasingly digital world and how far the reach of the state's Public Records Law should extend.

The issue surfaced in January, when WBZ-TV reporter Ryan Kath filed a public records request for the web browsing history of Michael Case, the former western regional director of the Department of Conservation and Recreation.

Case was forced to resign after his superiors reportedly became aware that he was surfing porn sites at work. DCR officials would only say that Case left because of a "human resources" issue.

DCR denied Kath's request, saying a worker's browsing history is not a public record, which the law defines as a record "made or received by any officer or employee of any agency...of the Commonwealth."

Bridget Connelly, an attorney for the agency, said Case's browser history could also be withheld based on what is called the Public Records Law's "notebook" exemption, which allows the withholding of notebooks and related materials prepared by government employees that are personal to them, not maintained as part of the files of the government entity, and not shared with other employees.

Connelly fleshed out her point by using an analogy. If a public employee were to make a handwritten list of websites visited throughout the workday, and that list was not stored in a government file or shared with others, Connelly argued the notebook exemption would apply. "Browser histories are simply a digital version of a handwritten list of websites visited," and can thus be kept from the public, she said.

Rebecca Murray, the supervisor of public records in Secretary of State William Galvin's office, rejected Connelly's arguments, saying a public record is "broadly defined to include all documentary materials or data, regardless of physical form or characteristics." She also discounted Connelly's notebook analogy,

saying DCR “has not met its burden in demonstrating how the entire list of websites visited by an employee constitutes personal reflections prepared by an employee on work-related activities.”

With DCR refusing to budge, Murray turned the case over to Healey for enforcement.

Robert Ambrogi, a public records attorney, sided with Murray in the dispute.

“We have to remember that government employees ultimately work for us, the taxpayers,” he said.

“We have a right to know if they are squandering the days surfing porn while on the public payroll. This is clearly a matter where the public has a right to know more about what led to Mr. Case’s resignation.”

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