

UNIVERSITY OF ILLINOIS

URBANA-CHAMPAIGN • CHICAGO • SPRINGFIELD

June 23, 2014

Dr. Andrew Scheinman
Scheinman Law
ascheinman@scheinmanlaw.com

Re: 14-366, 367, 368, 370, 371, 372, 373

Dear Dr. Scheinman:

I am responding to your letter received in our office on May 22, 2014, under the Freedom of Information Act ("FOIA" or the "Act") in which you submitted nine separate FOIA requests. Requests 1, 2, 3, 5, 6, 7 and 9 (internal numbers 14-366, 367, 368, 370, 371, and 373) sought:

1. "A full description of how you arrived at an estimate of several thousand pages of emails and all other correspondence between Ms. Laura Frerichs and Mr. Peter Fox sent/received in the last year[.]" [14-366]
2. "The number of emails between Ms. Laura Frerichs and Mr. Peter Fox sent/received in the last year. Please determine this number using a from/to search on your computer system, so that you may report the exact number of such emails." [14-367]
3. "The number of emails between Ms. Laura Frerichs and Mr. Peter Fox sent/received in the last year, where these emails contain a reference to 'Carle,' ie the keyword 'Carle' is contained within the subject line, body of the message, or both. Please determine this number using a from/to search on your computer system, so that you may report the exact number of such emails." [14-368]
5. "Was Ms. Frerichs responsible for the estimation of 'thousands of emails?'" [14-370]
6. "Did you conduct your own search(es) to determine the number of emails?" [14-371]
7. "A listing by *each month* for the last year of the estimated number of emails between Ms. Frerichs and Mr. Fox." [14-372]
9. "The number of emails between Ms. Laura Frerichs and Mr. Peter Fox sent/received in the last year, where these emails contain a reference to 'medical,' ie the keyword 'medical' is contained within the subject line, body of the message, or both. Please determine this number using a from/to search on your computer system, so that you may report the exact number of such emails." [14-373]

These requests are denied as they are not in proper form. Section 3(a) of FOIA provides,

“Each public body shall make available to any person for inspection or copying *all public records*, except as otherwise provided in Section 7 of this Act.” (5 ILCS 140/3(a)). (Emphasis added). The Act further provides that it is “not intended to create an obligation on the part of any public body *to maintain or prepare any public record which was not maintained or prepared by such public body* at the time when this Act becomes effective, except as otherwise required by applicable local, State or federal law.” (5 ILCS 140/1). (Emphasis added).

Your FOIA requests are not seeking a public document; instead, you are asking the University to answer questions, provide a number or write a description. In *Kenyon v. Garrels*, the 4th District Illinois Appellate Court found that “requests for information that did not identify the documents to be produced or made available was not in proper form.” 184 Ill. App. 3d 28, 33 (Ill. App. Ct. 4th Dist. 1989). The court went on to say, FOIA “does not compel the agency to provide answers to questions posed by the inquirer.” *Kenyon*, 540 N.E.2d at 13 (citing *Krohn v. Department of Justice* (D.C. Cir. 1980), 628 F.2d 195).

Since your requests are not requests for records, they are not in proper form and, thus, are denied.

You have a right, under the law, to seek a review of this response by the Public Access Counselor (PAC) in the Office of the Attorney General. The PAC may be reached by phone at 217-782-1396, by email to publicaccess@atg.state.il.us, or by postal mail at the Public Access Bureau, 500 S. 2nd Street, Springfield, Illinois 62706. You also have the right to seek judicial review under section 11 of this Act.

If you have any questions, please address them to the attention of Ms. Laura Clower, Associate University Counsel, at clower@uillinois.edu.

Sincerely,

Thomas P. Hardy
Executive Director
and Chief Records Officer

cc: Laura Clower, Assoc. Univ. Counsel