

IN THE CIRCUIT COURT OF THE  
EIGHTEENTH JUDICIAL CIRCUIT  
IN AND FOR BREVARD COUNTY,  
FLORIDA.

STATE OF FLORIDA,

Plaintiff,

CASE NO. 05-2015-CF-039871-AXXX-XX  
VOP

vs.

DANA LYNN LOYD,

Defendant.

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**MOTION TO COMPEL PRODUCTION OF E-MAILS**

COMES NOW, the Defendant, DANA LYNN LOYD, by and through her undersigned counsel, and moves this Honorable Court for an Order Compelling the Department of Corrections to produce e-mails between December 2016 and June 2018 related to the supervision of the Defendant in the email account Margo.Sloan@fdc.myflorida.com or any previous server used by Officer Sloan and/or the Department of Corrections. As grounds therefor:

1. A deposition of Probation Officer Sloan is set for December 10, 2018.
2. Probation Officer Sloan has been served with a Subpoena Duces Tecum to bring with her to the deposition: **information and reports from the supervision file of Dana Lynn Loyd, including the complete official file, attendance records, sign in sheets, hand written notes, correspondence from the victim, telephone messages, emails, and faxes in any way pertaining to Dana Lynn Loyd.**
3. At 7:00 p.m. on December 5, 2018, Officer Sloan sent the attached Invoice for Production of Records with the hand-written note at the bottom of page 2: "Also; unable to access any saved Sloan emails between December 2016 through June 2018." See Ex. A.
4. On information and belief, the emails that are now allegedly inaccessible contain details that would exonerate the Defendant from any allegation of probation violation.
5. On December 6, 2018, Officer Sloan sent a follow-up e-mail explaining that "Apparently my email was an old version that I can no longer access, so I cannot access anything at all, not just hers." See Ex. B.

6. On information and belief, the information that would exonerate the Defendant would have appeared in emails in December of 2017 at which time Officer Sloan was using the same e-mail address that is currently in use, i.e., Margo.Sloan@fdc.myflorida.com.

7. On information and belief, government servers generally are provided with automatic back up systems that would be readily accessible by any IT person, and general public use email systems such as gmail, hotmail and the like can be accessed by forensic means to recover data.

**WHEREFORE**, the Defendant, DANA LYNN LOYD, by and through her undersigned attorney, hereby moves this Honorable Court for an Order compelling the Department of Corrections to produce the subject emails.

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was sent by e-portal to the Office of the State Attorney, and by e-mail to Billie Shadron, JA to The Honorable Morgan Laur Reinman, on this 6th day of December, 2018.

*s//Michael Bross//*

MICHAEL BROSS, ESQ.

Florida Bar No. 0599610

997 S. Wickham Road

West Melbourne, Florida 32904

Telephone: (321) 728-4911

*michaelbross@brosslawoffice.com*

*terri@brosslawoffice.com*

**Terri Latonik**

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**From:** Sloan, Margo [Margo.Sloan@fdc.myflorida.com]  
**Sent:** Wednesday, December 05, 2018 7:00 PM  
**To:** Terri Latonik  
**Cc:** Eastman, Samantha  
**Subject:** Invoice for Production of Records Re: Dana Loyd  
**Attachments:** SKM\_454e18120519090.pdf

Ms. Latonik - so sorry for the delay. I could not read the fax number clearly on a prior email, so I scanned the invoice instead.

If you have any questions, please advise.

Margo Sloan  
Correctional Probation Senior Officer  
Cocoa 18-2 Probation Officer  
Telephone (321) 634-3570

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**From:** [P182\\_scans@mail.dc.state.fl.us](mailto:P182_scans@mail.dc.state.fl.us) <P182\_scans@mail.dc.state.fl.us>  
**Sent:** Wednesday, December 5, 2018 7:09 PM  
**To:** Sloan, Margo  
**Subject:** Message from KM\_454e

Ex A 1

**STATE OF FLORIDA  
DEPARTMENT OF CORRECTIONS  
Invoice for Production of Records**

**FACILITY:** Cocoa 18-2 Probation **DATE:** 12-05-18  
**EMPLOYEE:** Margo Sloan, CPSD  
**ADDRESS:** 1060 West King Street Cocoa, FL 32922  
**REQUESTOR:** Terri Latorik **FAX:** \_\_\_\_\_  
**REFERENCE:** Dana Loyd

The copies you requested are now available for pick up or mailing. Pursuant to Rule 33-102.101, Fla. Admin. Code, the following charges apply. Requested copies will not be released until payment is provided in the form of a check payable to the Department of Corrections sent to the above-listed address or a confirmed journal transfer.

In accordance with section 119.07(4)(d), Florida Statutes and Rule 33-102.101, Fla. Admin. Code, a special service charge will be assessed when the nature or volume of the public records requested to be inspected or copied is such as to require extensive use of information technology resources, extensive clerical or supervisory assistance by Department personnel, or both. "Extensive" means that it will take more than 15 minutes to locate, review for confidential information, copy and refile the requested material. The special service charge will be computed to the nearest quarter of an hour exceeding 15 minutes based on the current rate of pay for the paygrade of the person who performed the service and will be assessed regardless of the number of individual copies made.

Special Service Charge in ¼ hours	<u>642</u> x <u>20.63</u> hourly rate	=	<u>134.10</u>
Number of one-sided copies	<u>938</u> x .15 per copy	=	<u>140.70</u>
Number of two-sided copies	<u>71</u> x .20 per copy	=	<u>14.20</u>
<b>Total:</b>			<b><u>\$289.00</u></b>

The following information has been redacted from the records pursuant to Florida Statutes (F.S.) (insert an X for all that apply):

- Medical, psychological, and dental records, without a properly executed DC4-711B Consent for Release form. § 945.10(1)(a), 456.057(7)(a), F.S., 45 C.F.R., § 164.502.
- HIV/AIDS testing information and/or substance abuse treatment records, to the extent any exist, without a properly executed DC4-711B Consent for Release form. § 381.004, 397.501, 397.752, F.S., 42 U.S.C. § 290dd-2, 42 C.F.R. Part 2.
- Information relating to cause of death in all death records, including the medical certification of the cause of death in a death certificate. §§ 382.008(6), 945.10(1)(a), F.S., 45 C.F.R., § 164.502.
- A photograph or video or audio recording that depicts or records the killing of a person § 406.136, F.S. (Surviving spouses, surviving parents or surviving adult children of the deceased – in that order of descending priority – shall have access to such records.)
- Biometric identification information, including fingerprints, held by the department. § 119.071(5)(g), F.S.
- Personal identifying information of a dependent child of a current or former officer or employee of the Department or an agency, which dependent child is insured by an agency group insurance plan. § 119.071(4)(b), F.S.
- Medical information pertaining to a prospective, current, or former officer or employee. § 119.071(4)(b), F.S.
- Social security numbers. § 119.071(5)(a), F.S.
- Bank account numbers or debit, charge, or credit card numbers. § 119.071(5)(b), F.S.

*Ex A2*

- The home addresses, telephone numbers, including cellular and personal pager numbers, social security numbers, dates of birth, and photographs of active or former department employees and/or their spouses and children; places of employment; daycare facilities, and/or schools of active or former department employees' spouses and children (sections 119.071 (4)(d), F.S. and 945.10(1)(e), F.S.
- Records relating to an allegation of employment discrimination when the alleged victim chooses not to file a complaint and requests that records of the complaint remain confidential. § 119.071(2)(g) F.S.
- Preplea, pretrial intervention, pre-sentence or post-sentence investigations (PSIs). § 945.10(1)(b), F.S.
- Information regarding a person in the federal witness protection program. § 945.10(1)(c), F.S.
- Florida Commission on Offender Review records. § 945.10(1)(d), F.S.
- Records developed or received by any state entity pursuant to a Board of Executive Clemency investigation. § 14.28, F.S.
- Information, which if released, would jeopardize a person's safety. § 945.10(1)(e), F.S.
- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of an institution or revealing security systems of an institution. §§ 119.071(3) and 281.301, F.S.
- Threat assessments conducted by the department, threat response plans, emergency evacuation plans, sheltering arrangements or manuals for security personnel, emergency equipment, or security training. § 119.071(3)(a), F.S.
- Policies or plans compiled by the department relating to mobilization, deployment, or tactical operations involved in responding to emergencies. § 119.071(2)(d), F.S.
- Any information furnished by a person to an agency for the purpose of being provided with emergency notification by the agency. § 119.071(5)(j)1., F.S.
- Building plans, blueprints, schematic drawings, and diagrams which depict the internal layout and structural elements of an institution or other structure operated by the department. § 119.071(3)(b), F.S.
- Information revealing surveillance techniques, procedures or personnel § 119.071(2)(d), F.S.
- Information regarding a victim's statement and identity. § 945.10(1)(f); 119.071(2)(j), F.S.
- Identity of confidential informants. § 119.071(2)(f), F.S.
- Information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced as a result of an employee/applicant drug-testing program performed in accordance with the Drug Free Workplace Act. § 112.0455(11), F.S.
- Quality assurance reports and findings and recommendations prepared by or for the Florida Department of Corrections' medical review committees. § 766.101(7) and 945.6032, F.S.
- FCIC II/NCIC and criminal justice information. § 943.053, F.S.
- Active criminal investigation or criminal intelligence information. § 119.071(2)(c), F.S.
- On-going investigations regarding law enforcement or correctional officers. § 112.533(2)(a), F.S.
- Educational records; including personally identifiable records or reports of a student, and any personal information contained therein. § 1002.22(2) and 1002.221, F.S.
- Personal identifying information contained in records documenting an act of domestic violence or sexual violence that is submitted to the department by an employee or a written request for leave or time sheet reflecting a request submitted by a department employee pursuant to section 741.313, Florida Statutes. § 741.313(7), F.S.
- A record that was prepared by an agency attorney or prepared at the attorney's express direction, that reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the agency, and that was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or that was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings. § 119.071(1)(d), F.S.
- Other (describe) DBIS Screens

*Also; unable to access any saved Sloan emails between*

*ACT*

**Terri Latonik**

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**From:** Sloan, Margo [Margo.Sloan@fdc.myflorida.com]  
**Sent:** Thursday, December 06, 2018 1:59 PM  
**To:** Terri Latonik  
**Subject:** RE: Invoice for Production of Records Re: Dana Loyd

Eastman's and Flannery's emails are included in that invoice along with the file.

Apparently my email was on an old version that I can no longer access, so I cannot access anything at all, not just hers.

Sent from my Verizon 4G LTE smartphone

----- Original message -----

**From:** Terri Latonik <terri@brosslawoffice.com>  
**Date:** 12/6/18 8:31 AM (GMT-05:00)  
**To:** "Sloan, Margo" <Margo.Sloan@fdc.myflorida.com>  
**Cc:** "Eastman, Samantha" <Samantha.Eastman@fdc.myflorida.com>, "Michael R. Cook" <michaelcook@brosslawoffice.com>  
**Subject:** RE: Invoice for Production of Records Re: Dana Loyd

Thank you Officer Sloan,

I previously indicated to Officer Eastman that we would only need one set of the probation records; however, we will need Officer Eastman's emails relating to Ms. Loyd particularly in light of the indication that the DOC is "unable to access any saved Sloan emails between December 2016 through June 2018."

Terri,

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**From:** Sloan, Margo [mailto:Margo.Sloan@fdc.myflorida.com]  
**Sent:** Wednesday, December 05, 2018 7:00 PM  
**To:** Terri Latonik  
**Cc:** Eastman, Samantha  
**Subject:** Invoice for Production of Records Re: Dana Loyd

Ms. Latonik - so sorry for the delay. I could not read the fax number clearly on a prior email, so I scanned the invoice instead.

If you have any questions, please advise.

Margo Sloan  
Correctional Probation Senior Officer  
Cocoa 18-2 Probation Officer  
Telephone (321) 634-3570

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**From:** P182\_scans@mail.dc.state.fl.us <P182\_scans@mail.dc.state.fl.us>  
**Sent:** Wednesday, December 5, 2018 7:09 PM

EX B