

**From:** John Kraft  
**Sent:** Tuesday, May 30, 2017 2:20 PM  
**To:** Access, Public <PAccess@atg.state.il.us>; publicaccess@atg.state.il.us  
**Cc:** 'DLeonard@ILSOS.NET' DLeonard@ILSOS.NETxxxxxxxxxxxxxxxxxxxxx  
**Subject:** FOIA Request for Review (Secretary of State)

AG-PAC,

Please consider this a request for review of an alleged FOIA denial.

**NAME OF PUBLIC BODY:** Illinois Secretary of State

**DATE(s) OF ALLEGED VIOLATION:** March 27, 2017 (FOIA Request Denied)

**LAST DAY TO FILE A REQUEST FOR REVIEW:** May 30, 2017 (first business day after the 60<sup>th</sup> day, which fell on a Saturday)

**Allegations: Improper Denial**

**Discussion:**

Sec. of State's Office denied the request pursuant to Section 7(1)(a) of the FOIA, 5 ILCS 140/7(1)(a), and Section 2-123(f-5) of the Illinois Vehicle Code, 625 ILCS 5/2-123(f-5).

**This was an improper denial because for the following reasons:**

- Section 7(1)(a) of the FOIA only applies to information "specifically prohibited" from disclosure by federal or State law or rules and regulations implementing federal or State law.
- Nothing in the Illinois Vehicle Code specifically prohibits disclosing the vehicle registration information of vehicles licensed and titled to government entities, which is what I requested, nor specifically prohibits disclosing the requested information to news media.
- Section 2-123(f-5) only prohibits the disclosing of "personally identifying information" – nothing I requested includes any personally identifying information.
- Subparagraph 12, under Section 2-123(f-5) specifically authorizes the SOS to provide the information requested to "news media" as defined in Section 1-148.5, if the request relates to news gathering and the operation of a motor vehicle or public safety.
- Section 2-123(n) specifically authorizes releasing the requested information to news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public and is not for the general purpose of gaining personal or commercial benefit.
- Section 1-148.5 defines "News Media" as this request for public records was from "news media" with the stated purpose of using it "*to inform citizens of the actions of their public officials, of their rights and responsibilities, of news and current or passing events, and for articles*

*of opinion or features of interest to the public*". I am, and the organizations I represent are, a newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service in electronic format, and are engaged in the making of news reels or other motion picture news for public showing.

Additionally, nothing I requested contains "*highly restricted personal information*" as that term is defined in the Illinois Vehicle Code, Section 1-125.9. I did not request anyone's "*legal name*" as defined in Section 1-137.5. I did not request any "*personally identifying information*" as that term is defined in Section 1-159.2.

Statutory references below:

**Section 7(1)(a) of FOIA states, emphasis mine:**

(1) When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. The public body shall make the remaining information available for inspection and copying. **Subject to this requirement**, the following shall be exempt from inspection and copying:

(a) Information **specifically prohibited from disclosure** by federal or State law or rules and regulations implementing federal or State law.

**The Illinois Vehicle Code states, emphasis mine:**

(f-5) The Secretary of State shall not disclose or otherwise make available to any person or entity any **personally** identifying information obtained by the Secretary of State in connection with a driver's license, vehicle, or title registration record unless the information is disclosed for one of the following purposes:

(12) For use by members of the news media, as defined in Section 1-148.5, for the purpose of newsgathering when the request relates to the operation of a motor vehicle or public safety.

**Additionally, the Illinois Vehicle Code, Section 5-123(n) specifically authorizes the Sec. of State to provide the requested information:**

(n) Requests made by the news media for driver's license, vehicle, or title registration information may be furnished

without charge or at a reduced charge, as determined by the Secretary, when the specific purpose for requesting the documents is deemed to be in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public and is not for the principal purpose of gaining a personal or commercial benefit. The information provided pursuant to this subsection shall not contain personally identifying information unless the information is to be used for one of the purposes identified in subsection (f-5) of this Section.

**Finally, the Illinois Vehicle Code, Section 1-148.5 defines "News Media" as:**

Sec. 1-148.5. News media. A newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format, a radio station, a television station, a television network, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing.

**Summary of Timeline:**

**On March 19, 2017**, I submitted a FOIA request to the City of Carlinville for copies of the public records (attached).

**On March 29, 2017**, the FOIA Request was denied.

Original FOIA request and denial are below.

Thanks for your consideration, and please render a determination that the Secretary of State improperly withheld the requested public records.

Electronic communications preferred.

John Kraft  
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