

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
CRAWFORD COUNTY, ILLINOIS**

KIRK ALLEN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	2018CH39
	)	
CRAWFORD COUNTY	)	
SHERIFF'S OFFICE,	)	
	)	
Defendant.	)	

**COMPLAINT**

NOW COMES Plaintiff, KIRK ALLEN, by his undersigned attorneys, LOEVY & LOEVY, and brings this suit to overturn Defendants CRAWFORD COUNTY SHERIFF'S OFFICE's refusal, in willful violation of the Illinois Freedom of Information Act, to respond to ALLEN's Freedom of Information Act requests for records related to seized weapons. In support of his Complaint, ALLEN states as follows:

**INTRODUCTION**

1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of the Illinois Freedom of Information Act ("FOIA"). 5 ILCS 140/1.

2. Restraints on access to information, to the extent permitted by FOIA, are limited exceptions to the principle that the people of this state have a right to full disclosure of information relating to the decisions, policies, procedures, rules, standards, and other aspects of

government activity that affect the conduct of government and the lives of the people. 5 ILCS 140/1.

3. All public records of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt. 5 ILCS 140/3.

4. Under FOIA Section 11(h), "except as to causes the court considers to be of greater importance, proceedings arising under [FOIA] shall take precedence on the docket over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way."

#### **PARTIES**

5. Plaintiff KIRK ALLEN is the FOIA requester in this case.

6. Defendant CRAWFORD COUNTY SHERIFF'S OFFICE ("CCSO") is a public body located in Crawford County, Illinois.

#### **JULY 27, 2017 FOIA REQUEST**

7. On July 27, 2017, ALLEN made a request for records under FOIA from CRAWFORD COUNTY SHERIFF'S OFFICE for "1. A copy of the inventory of seized weapons (guns) in the possession of the Sheriff's Office. 2. A copy of all seized weapons (guns) sold in the last 10 years. 3. A copy of all court orders releasing weapons to the Sheriff in the last 10 years. 4. A copy of all bid announcements and bids received to purchase seized weapons (guns) from the Sheriff's department in the last 10 years." A true and correct copy of the request is attached as Exhibit A.

8. On August 4, 2017, CCSO responded with an email stating that it could not discuss producing any documents until August 9, 2018. A true and correct copy of the email is attached as Exhibit B.

9. After ALLEN followed up with CCSO on September 26, 2017, CCSO responded on October 2, 2017 stating that it had accidentally deleted the original request and asked ALLEN to resend it. A true and correct copy of the response is attached as Exhibit C.

10. After ALLEN followed up again on October 25, 2017, CCSO responded that it would "have [its] FOIA guys get on it asap." A true and correct copy of the email is attached as Exhibit D.

11. As of the date of filing this Complaint, CCSO has not produced any records in response to this FOIA request.

#### **COUNT I – JULY 27, 2017 FAILURE TO PRODUCE RECORDS**

12. The above paragraphs are incorporated by reference.

13. CCSO is a public body under FOIA.

14. The records sought in ALLEN's FOIA request are non-exempt public records of CCSO.

15. CCSO violated FOIA by failing to produce the responsive records.

#### **COUNT II – JULY 27, 2017 WILLFUL AND INTENTIONAL VIOLATION OF FOIA**

16. The above paragraphs are incorporated by reference.

17. CCSO is a public body under FOIA.

18. The records sought in ALLEN's FOIA request are non-exempt public records of CCSO.

19. CCSO willfully and intentionally, or otherwise in bad faith failed to comply with FOIA.

**WHEREFORE**, ALLEN asks that the Court:

- i. in accordance with FOIA Section 11(f), afford this case precedence on the Court's docket except as to causes the Court considers to be of greater importance, assign this case for hearing and trial at the earliest practicable date, and expedite this case in every way;
- ii. declare that CCSO has violated FOIA;
- iii. order CCSO to produce the requested records;
- iv. enjoin CCSO from withholding non-exempt public records under FOIA;
- v. order CCSO to pay civil penalties;
- vi. award Plaintiff reasonable attorneys' fees and costs;
- vii. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,

*/s/ Joshua Hart Burday*

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Attorneys for Plaintiff  
KIRK ALLEN

Matthew Topic  
Joshua Burday  
LOEVY & LOEVY  
311 North Aberdeen, 3rd Floor  
Chicago, IL 60607  
312-243-5900  
foia@loevy.com  
Atty. No. 41295

**From:** Kirk Allen

**Sent:** Thursday, July 27, 2017 11:20 AM

**To:** 'sheriff@crawfordcountycentral.com' <sheriff@crawfordcountycentral.com>

**Subject:** FW: FOIA Request

In accordance with the Freedom of Information Act of Illinois, I am requesting the following public records.

1. A copy of the inventory of seized weapons (guns) in the possession of the Sheriff's Office.
2. A copy of all seized weapons (guns) sold in the last 10 years.
3. A copy of all court orders releasing weapons to the Sheriff in the last 10 years.
4. A copy of all bid announcements and bids received to purchase seized weapons (guns) from the Sheriff's department in the last 10 years.

I qualify as both media and non-profit under the definitions in Section 2 (c-10) ("Commercial purpose"), Section 2 (f) ("News media"), Section 2 (g) ("Recurrent requester"), and Section 2 (h) ("Voluminous request") of the Freedom of Information Act, for the purposes of being exempt to the provisions of Section 3.1 (Requests for commercial purposes), Section 3.2 (Recurrent requesters), Section 3.6 (Voluminous requests), and Section 6 (Authority to charge fees).

I request expedited processing on the basis of an urgency to inform the citizens and taxpayers of Illinois about their government's activities. If any element of this request is denied in whole or in part, I ask that you justify all withholdings individually by reference to specific exemptions of the Act. Please provide all responsive information to me electronically.

I request a rolling production of records, such that the public body furnishes records to my attention as soon as they are identified, preferably electronically, but as needed then to my attention, at the below address. If you have any questions please do not hesitate to contact me. Rolling production is not to be perceived as an agreement to extend the time frame for compliance under FOIA.

If you are not the FOIA officer responsible for any part of this request you are required by law to forward it to the appropriate FOIA officer.

The purpose of the request is to access and disseminate information regarding the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

As outlined in FOIA, documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is 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 personal or commercial benefit.

Exhibit A

I am requesting the records be provided in electronic format if that is the method in which they are stored. If they are in paper form and the copier can convert them to electronic format I would appreciate receiving them electronically.

Thanks,  
Kirk Allen  
PO Box 593  
Kansas, IL 61933

**From:** [Crawford Co. Sheriff](#)  
**To:** [Kirk Allen](#)  
**Subject:** Seized weapons  
**Date:** Friday, August 4, 2017 10:42:46 AM

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Mr. Allen, I have just now been able to review my emails and found your foia request. It will take me some time to find the records you requested. I took over this office 2 ½ years ago and have found record keeping was not standard here. I had to relieve the previous secretary from duty, for not keeping proper records. I have also recently let my ordnance officer go who was supposed to have a new record system set up, but did not. I will be out of the office for the next four days. Please call me on 08-09-17, at 618-546-1515 so I can clarify what we do have.

**From:** [Crawford Co. Sheriff](#)  
**To:** [Kirk Allen](#)  
**Subject:** RE: Seized weapons  
**Date:** Monday, October 2, 2017 12:33:34 PM

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I have to be honest with you, I somehow deleted your original email, I was hoping you would have contacted me before now, I requested you to call to verify some of the things you requested. If you would please send me the original email again, I will work on it as soon as I get it. Please call me with any questions or comments. I apologize for the delay in this, I have no excuse other than I made a mistake, and I am not sure how I did it because I don't delete important emails. My office number is 618-546-1515, my personal cell number is 618-554-2816. If I miss your call, I will return your call as soon as I can.

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**From:** Kirk Allen [mailto:[Kirk@illinoisleaks.com](mailto:Kirk@illinoisleaks.com)]  
**Sent:** Tuesday, September 26, 2017 3:25 PM  
**To:** Crawford Co. Sheriff  
**Subject:** RE: Seized weapons

Still waiting?

Kirk Allen

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**From:** Crawford Co. Sheriff [mailto:[sheriff@crawfordcountycentral.com](mailto:sheriff@crawfordcountycentral.com)]  
**Sent:** Friday, August 4, 2017 10:43 AM  
**To:** Kirk Allen <[Kirk@illinoisleaks.com](mailto:Kirk@illinoisleaks.com)>  
**Subject:** Seized weapons

Mr. Allen, I have just now been able to review my emails and found your foia request. It will take me some time to find the records you requested. I took over this office 2 ½ years ago and have found record keeping was not standard here. I had to relieve the previous secretary from duty, for not keeping proper records. I have also recently let my ordnance officer go who was supposed to have a new record system set up, but did not. I will be out of the office for the next four days. Please call me on 08-09-17, at 618-546-1515 so I can clarify what we do have.



**From:** [Crawford Co. Sheriff](#)  
**To:** [Kirk Allen](#)  
**Subject:** RE: FOIA Request  
**Date:** Wednesday, October 25, 2017 5:43:47 PM

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Thanks for sending this to me again, I will have my FOIA guys get on it asap. Sheriff Rutan

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**From:** Kirk Allen [mailto:[Kirk@illinoisleaks.com](mailto:Kirk@illinoisleaks.com)]  
**Sent:** Wednesday, October 25, 2017 11:58 AM  
**To:** [sheriff@crawfordcountycentral.com](mailto:sheriff@crawfordcountycentral.com)  
**Subject:** FW: FOIA Request

Still waiting.

If you have questions please shoot them to me for a response so there is no miscommunication on the matter.

Kirk Allen

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**From:** Kirk Allen  
**Sent:** Thursday, July 27, 2017 11:20 AM  
**To:** [sheriff@crawfordcountycentral.com](mailto:sheriff@crawfordcountycentral.com)  
**Subject:** FW: FOIA Request

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I request expedited processing on the basis of an urgency to inform the citizens and taxpayers of Illinois about their government's activities. If any element of this request is denied in whole or in part, I ask that you justify all withholdings individually by reference to specific exemptions of the Act. Please provide all responsive information to me electronically.

I request a rolling production of records, such that the public body furnishes records to my attention as soon as they are identified, preferably electronically, but as needed then to my attention, at the below address. If you have any questions please do not hesitate to contact me.

Exhibit D

Rolling production is not to be perceived as an agreement to extend the time frame for compliance under FOIA.

If you are not the FOIA officer responsible for any part of this request you are required by law to forward it to the appropriate FOIA officer.

The purpose of the request is to access and disseminate information regarding the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

As outlined in FOIA, documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is 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 personal or commercial benefit.

I am requesting the records be provided in electronic format if that is the method in which they are stored. If they are in paper form and the copier can convert them to electronic format I would appreciate receiving them electronically.

Thanks,  
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PO Box 593  
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