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Thank you for attending the 108th IML Annual Conference.



Who Let the (Watch)Dogs Out? How to Work Effectively with Watchdog Groups

IML Annual Conference 2021

Kirk Allen and John Kraft, Co-Founders
Edgar County Watchdogs, Inc.

Keri-Lyn J. Krafthefer, Equity Partner
Ancel Glink P.C., Chicago

Objectives and Rules of Engagement

- Why there is an increase in local watchdogs?
- What do the watchdogs want?
- How can we avoid trouble with watchdogs?
- What can we do if we disagree with the watchdogs?

- Questions are welcome
- We will not discuss any pending issues that the Edgar County Watchdogs have with Illinois municipalities.

Why this session is necessary

- The public is clamoring for transparency and accountability
- There is a proliferation of watchdog groups
- We need to bridge the gap and open communications between public bodies and watchdog groups which both share common interests of transparency and accountability

A local government perspective

- “Good” watchdogs v. “bad” watchdogs
 - Both have a First Amendment right to publish
- A “good” watchdog group will, itself, operate transparently and with accountability
 - They will disclose who they are
 - They seek compliance with the laws, not to embarrass well-meaning public officials who are trying to comply with laws

A local government perspective

- A “bad” watchdog group will operate anonymously
 - They will not disclose who they are
 - They generally present a political, biased view
 - They seek to humiliate public officials

Common questions about Edgar County Watchdogs

- What do they want?
- Aren't they evil horned beings who want to destroy government?
- Isn't true that they are doing this for the money (from ads from their website or legal fees in litigation)?
- They aren't considered "news media," are they?

Who are the Edgar County Watchdogs?

- Incorporated in 2013
- 501(c)(4) nonprofit corporation
- Their AG Form 990 is in the Attorney General's charitable organization database
- IRS recognition as a nonprofit



“News Media”

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Illinois Leaks

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AUGUST 10, 2021

Former Madison County Officials File Civil Conspiracy And Whistleblower Lawsuit Against Chief Judge Bill Mudge, Sheriff John Lakin, And Other Current And Former County Officials

BY JOHN KRAFT

MADISON COUNTY, IL. (ECWd) – ***PRESS RELEASE*** Former County Officials File Civil Conspiracy and Whistleblower Lawsuit Against Madison County Chief Judge Bill Mudge, Sheriff John Lakin, Treasurer Chris Slusser, Circuit Clerk Tom McRae and Other Current and Former County Officials. EDWARDSVILLE – Former



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Paris Police Sued Again In Arrest Of Child Riding A Bicycle –

BY JOHN KRAFT AUGUST 9, 2021

PARIS, IL. (ECWd) – The City of Paris and Paris Police Officers Matthew McConnell and Travis Vice were sued on August 7, 2020, in federal Court alleging civil rights



Gov Pritzker And ISBE Sued Over Newest Mask Mandate –

BY JOHN KRAFT AUGUST 9, 2021

Clinton County, IL. (ECWd) – A lawsuit was filed today in Clinton County, Illinois, naming Governor Pritzker and Dr. Carmen Ayala, Director of the Illinois State Board of



“News Media”

- - Edgar County Watchdogs, Inc. are “news media” as that term is defined in Illinois law
- 5 ILCS 140/2(f) "News media" means a newspaper or other periodical issued at regular intervals whether in print or electronic format... or a person or corporation engaged in making news reels or other motion picture news for public showing.
- Media credentials
- Member of Investigative Reporters and Editors, Society of Professional Journalists and Chicago Headline Club, SOS Media Credentials, Circuit Courts permit us Extended Media Coverage (cameras in the courtroom) when we ask, White House Press Pool, Media Member: Media Law Resource Center



But “news media” does not matter,
because of exemptions for nonprofits

- Commercial purpose
- Recurrent requestor
- Voluminous requestor

“Commercial purpose”

- 5 ILCS 140/2(c-10) "Commercial purpose" means the use of any part of a public record or records, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education.

“Recurrent requestor”

- 5 ILCS 140/2(g) "Recurrent requestor", as used in Section 3.2 of this Act, means a person that, in the 12 months immediately preceding the request, has submitted to the same public body (i) a minimum of 50 requests for records, (ii) a minimum of 15 requests for records within a 30-day period, or (iii) a minimum of 7 requests for records within a 7-day period. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time periods in this definition when the principal purpose of the requests is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education.

“Voluminous Requests”

- 5 ILCS 140/2 (h) "Voluminous request" means a request that: (i) includes more than 5 individual requests for more than 5 different categories of records or a combination of individual requests that total requests for more than 5 different categories of records in a period of 20 business days; or (ii) requires the compilation of more than 500 letter or legal-sized pages of public records unless a single requested record exceeds 500 pages. "Single requested record" may include, but is not limited to, one report, form, e-mail, letter, memorandum, book, map, microfilm, tape, or recording.
- "Voluminous request" does not include a request made by news media and non-profit, scientific, or academic organizations if the principal purpose of the request is: (1) to access and disseminate information concerning news and current or passing events; (2) for articles of opinion or features of interest to the public; or (3) for the purpose of academic, scientific, or public research or education.

Who we are not

- We are not anti-government
- We are not partisan
- We are not funded by lawsuits
- We are not paid

How did we come into being/
why did we form?



What is our motivation?

- Good, honest government
- Accountability to the public
- Adherence to the Freedom of Information Act and the Open Meetings Act and other statutes
- Assistance to those who may feel apprehensive to seeking redress by themselves

How do we get alerted of an alleged problem?

- Mostly local residents and local public officials – either through email, our hotline or in person
- Other news organizations contact us
- Rarely, but sometimes, through reading a newspaper article

What do we do with the tips we receive?

- Review the tip and ask questions from the source to narrow down the complaint and to decide if it is worth pursuing
- Review the records of the public body (minutes, agendas, etc.) through the Freedom of Information Act

Documents we review

- Meeting agendas and minutes
- Compensation/salary ordinance for elected officials
- Employment agreements/contracts with employees
- Statements of economic interests
- Credit card/charge card/debit card usage
- Bank accounts
- Public Comment Policy
- FOIA and OMA compliance
- Public Officer Prohibited Activity Act compliance
- Appointment of elected officials to other positions
- Basic statutes governing the local government (Illinois Municipal Code, Illinois Township Code, Park District Code, etc.)

Best practices for Interacting with Watchdogs

- How do you first contact or approach a public body if there is an issue?
- What if we made an innocent mistake?
- How can we avoid becoming a headline on your website?

Best Practices for Interacting with Watchdogs

- What if we just disagree with you?
- How can we avoid being “targeted” by you?



Pop quiz 1 – What should we do if the watchdogs FOIA records from us?

- A. Go into closed session and discuss a strategy to thwart them
- B. Extend the timelines to comply under FOIA and then fail to give any public records to them
- C. Contact them and see what they want
- D. Ignore them completely
- E. Make a reasonable attempt to comply with their requests and respectfully communicate any disagreements

Pop quiz 2 - Which of the things should we do if watchdogs show up at our village's meeting?

1. Allow them to participate the same as the rest of the public present at the meeting
2. Prohibit them from participating in public comment
3. Ban them from using recording devices in the open meeting
4. Immediately adjourn the meeting

QUESTIONS?

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