



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

August 28, 2019

Via electronic mail

Mr. John Kraft
7060 Illinois Highway 1
Paris, Illinois 61944
john@illinoisleaks.com

Via electronic mail

Ms. Christy Berkquist
FOIA Officer
Lake County Sheriff's Office
25 South Martin Luther King Jr. Avenue
Waukegan, Illinois 60085
sherifffoia@lakecountyil.gov

RE: FOIA Request for Review – 2016 PAC 41654

Dear Mr. Kraft and Ms. Berkquist:

This determination letter is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2018)).

On April 28, 2016, Mr. John Kraft submitted a Request for Review to the Public Access Bureau alleging that the Lake County Sheriff's Office (Sheriff's Office) improperly denied his February 26, 2016, FOIA request as an unduly burdensome repeated request under section 3(g) of FOIA (5 ILCS 140/3(g) (West 2016)). Section 3(g) provides: "Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under this Act shall be deemed unduly burdensome under this provision." Mr. Kraft claimed that for purposes of this provision, he is a different "person" from his Edgar County Watchdogs/Illinois Leaks colleague, Mr. Kirk Allen.

Section 2(b) of FOIA (5 ILCS 140/2(b) (West 2016)) defines "person" as "any individual, corporation, partnership, firm, organization or association, acting individually or as a group." Under this definition, two individuals who belong to the same entity and submit FOIA

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requests in their capacities with the entity qualify as the same "person" under the definition of that term in FOIA. Ill. Att'y Gen. PAC Req. Rev. Ltr. 17798, issued September 21, 2018, at 3-4 (husband and wife who worked for same company and submitted FOIA requests in their capacities as employees were the same "person" and therefore could be treated as a recurrent requester under section 3.2 of FOIA (5 ILCS 120/3.2 (West 2011 Supp.)) based on the cumulative number of their requests).

The binding opinion Mr. Kraft cited which construed the definition of "person" in FOIA—Ill. Att'y Gen. Pub. Acc. Op. No. 12-001, issued January 9, 2012—is inapposite. In that matter, the Attorney General concluded that the village had not set forth facts sufficient to demonstrate that a husband and wife who each submitted FOIA requests under their own names qualified as the same "person" for purposes of the recurrent requester provisions in FOIA. Ill. Att'y Gen. Pub. Acc. Op. No. 12-001, at 6. The Attorney General stated that "[n]othing in the statute permits the Village to aggregate the separate requests of two individuals for purposes of section 2(g) simply because the individuals are married or live at the same address." Ill. Att'y Gen. Pub. Acc. Op. No. 12-001, at 6. Here, in contrast, Mr. Kraft's request was sent from an e-mail address with an illinoisleaks.com domain name and it stated that Mr. Kraft qualified as a member of the news media and a not-for-profit organization. The Edgar County Watchdogs/Illinois Leaks website states that Edgar County Watchdogs "is a 501(c)(4) Organization" devoted to fostering "accountability, truth, and transparency in our local governing bodies."¹ Mr. Kraft and Mr. Allen clearly work in tandem on FOIA matters as part of the same organization. Accordingly, the Sheriff's Office's treatment of Mr. Kraft and Mr. Allen as the same "person" for purposes of section 3(g) of FOIA did not violate FOIA.

The Public Access Bureau has determined that resolution of this matter does not require the issuance of a binding opinion. This file is closed. Please contact me at (312) 814-8413 or at the Chicago address on the first page of this letter if you have questions.

Very truly yours,


JOSHUA M. JONES
Deputy Bureau Chief
Public Access Bureau

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¹Illinois Leaks, "Edgar County Watchdogs," Contact Us, <https://edgarcountywatchdogs.com/about-us> (last visited August 28, 2019).