

## May: Cops wrong to shield driver data

Written by By Dee Hall  
Wednesday, 01 May 2013 00:00

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Bob Dreps, a veteran media law attorney, says law enforcement agencies across Wisconsin are “overreacting” to an Illinois federal court ruling by purging the names of drivers from public records.

Police in Wisconsin have begun withholding the names of drivers in police reports in response to a 2012 case involving the village of Palatine, Ill. A lawsuit there alleged that police violated drivers’ privacy rights by displaying names, addresses and other personal information on parking tickets left on windshields.

“The ability to have oversight over law enforcement is pretty minimal if you can’t find out who’s involved (in an incident),” Dreps says. “Without names, there’s no accountability.”

Dreps warns that this could lead to bizarre situations in which names of some alleged perpetrators, crime victims and witnesses are kept secret while others — those without driver’s licenses — appear in incident reports.

The U.S. Court of Appeals for the 7th Circuit, which includes Wisconsin, reversed the dismissal of a lawsuit alleging that the manner in which the citations were issued by Palatine police violated the federal Driver’s Privacy Protection Act.

The federal law lets aggrieved parties go back four years and carries a mandatory \$2,500 per incident fine. Palatine, which was sued by a class of drivers who received a total of 32,000 tickets, faces a potential \$80 million fine. It has appealed to the U.S. Supreme Court.

Dreps says the ruling is not binding in Wisconsin, and does not change the state’s Open Records Law. But some law enforcement agencies here are nonetheless blacking out

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information that was once routinely available. (Ironically, law enforcement agencies in Illinois do not seem to be doing the same.)

According to news reports, the Marathon County Sheriff's Office, Wausau Police Department and more than a dozen police agencies in suburban Milwaukee now withhold personal information obtained through state Department of Motor Vehicle records — including the identities of people arrested.

Dreps says the federal law was aimed at preventing states from selling their drivers' license database to vendors, not keeping the public from knowing the names of people in police reports.

"The case doesn't have anything to do with public records," Dreps says. "It has to do with parking tickets left on windshields."

Dreps is representing the New Richmond News, which is challenging the decision of local police to remove names from two accident reports and a report involving the theft of gas from a Kwik Trip.

In a letter to the paper's publisher, Steve Dzubay, New Richmond Police Chief Mark Samelstad said he wouldn't put the city at risk "by releasing certain information to the public that has been restricted by state or federal courts."

State Attorney General J.B. Van Hollen issued an opinion in 2008 that Wisconsin law enforcement agencies do not violate the Driver's Privacy Protection Act when they release records that contain drivers' personal identification. But some agencies are no longer heeding that advice, and Van Hollen's office now says it is waiting for the courts to clarify the Palatine decision.

On April 23, the lawsuit filed by Dreps on behalf of the New Richmond News was moved from St. Croix County Circuit Court to U.S. District Court in Madison.

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Perhaps a federal judge or the U.S. Supreme Court will clear things up and allow police in Wisconsin to keep their black marking pens where they belong — in the drawer.

*Your Right to Know is a monthly column distributed by the Wisconsin Freedom of Information Council, a non-profit group dedicated to open government. Dee J. Hall is a reporter for the Wisconsin State Journal and secretary of the Council.*