

LEADS Daily Bulletin for August 10, 2022

SOS Images - Dissemination Reminder

LEADS users must ensure the following procedures are adhered to regarding access and dissemination of SOS Images. Non-criminal justice requests are only authorized to be disseminated by the Illinois Secretary of State.

While the Illinois Vehicle Code does not state any specific penalties for violations related to unauthorized access or dissemination of SOS Images, the disclosure of the photographs is governed by the federal Drivers Privacy Protection Act, as the photograph is considered highly restricted personal information. Thus, any improper disclosure may result in a criminal fine of up to \$10,000 (18 USC 2723). In addition, the individual may bring a civil action suit against the person improperly disclosing the photograph which would include a fine of not less than \$2,500, punitive damages if there is proof of reckless or willful disregard of the law, and attorney's fees (18 USC 2724).

Dissemination

1. SOS images shall remain confidential and be made available only to criminal justice agencies for a lawful civil or criminal investigation. The images shall not be publicly displayed, accessed by or distributed to entities other than criminal justice agencies and only then for the purpose of a lawful civil or criminal law enforcement investigation.
2. The Federal Driver's Privacy Protection Act defines images as highly restrictive information and includes significant penalties for improper use.
3. Only images of a suspect in the investigation for which the image was requested can be used in any line-up or photo array. Other images retrieved can only be used in a photo line-up or array if the individual whose image is to be used has provided express written consent in advance of the use of the image.
4. A criminal justice agency shall not maintain a file of all or any subset of SOS images, nor store the images as part of a database or separately established collection, unless explicitly authorized by SOS, by Illinois law and 92 Illinois Administrative Code 1030.140.

Secondary Dissemination

1. Broad secondary dissemination or display of images to the public or to persons other than those authorized can occur if the criminal justice entity responsible for the investigation for which the image was requested deems further dissemination of the image to be necessary for locating a suspect or crime victim, or for protecting public or officer safety in the course of a criminal investigation, if:
 - a. no other suitable image is available; and
 - b. additional methods of verification of the person's identity and image have been completed; and
 - c. the following applicable disclaimer language is included: **Only for use as authorized by 625 ILCS 5/6-110.1 and 92 Ill. Adm. Code 1030.140. This information and image cannot be certified to be anything other than the information and image of the individual who presented himself or herself to the Secretary of State's Office with the required forms of identification;** and
 - d. it is approved in advance, in writing, by the Secretary of State, Department of Police. This approval can be requested 24 hours a day Criminal Justice personnel ONLY, seven days a week by calling the SOS Police Inquiry Unit at 217/785-0309.

2. Criminal justice agencies that secondarily disseminates an image, must:
 - a. have the capability to identify and record the identity of the requesting agency;
 - b. ensure the secondary recipient/requestor is an authorized criminal justice agency; and
 - c. maintain a record of such image dissemination and shall make said records available to ISP and SOS upon request.

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