



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

April 20, 2023

*Via electronic mail*

Mr. Mick Dumke  
Reporter  
ProPublica  
mick.dumke@propublica.org

*Via electronic mail*

Ms. Rhiann M. Martynowski  
FOIA Unit  
Illinois State Police  
801 South Seventh Street, Suite 1000-S  
Springfield, Illinois 62703  
isp.foia.officer@illinois.gov

RE: FOIA Request for Review – 2022 PAC 73240; FOIA 22-2595

Dear Mr. Dumke and Ms. Martynowski:

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2020)). For the reasons that follow, the Public Access Bureau concludes that the Illinois State Police (ISP) did not violate FOIA by denying Mr. Mick Dumke's July 13, 2022, FOIA request.

On that date, Mr. Dumke, on behalf of ProPublica, submitted a FOIA request to ISP seeking an update to records ISP provided in response to FOIA request 21-0901. Specifically, he sought an Excel spreadsheet displaying the following data for all firearms restraining orders issued or filed since January 1, 2019, under the Firearms Restraining Order Act (430 ILCS 67/1, *et seq.* (West 2020)):

- the date or year
- county or court jurisdiction

Mr. Mick Dumke  
Ms. Rhiann Martynowski  
April 20, 2023  
Page 2

- type of petitioner (family member, law enforcement agency, etc)
- name of petitioner if a law enforcement agency
- length and type of order (emergency, 6-month, etc)
- status of the order (active, renewed, terminated, etc)
- age, gender, and race of the respondent/recipient of the order[.]<sup>[1]</sup>

On August 23, 2022, ISP denied Mr. Dumke's request pursuant to section 7(1)(a)<sup>2</sup> of FOIA, on the basis that the responsive information is maintained in the Law Enforcement Agency Data System (LEADS), and that section 1240.80(d) of title 20 of the Administrative Code<sup>3</sup> prohibits ISP from disclosing LEADS information. ISP's denial also cited sections 7.5(v)<sup>4</sup> and 8.5<sup>5</sup> of FOIA. On August 30, 2022, Mr. Dumke filed this Request for Review challenging ISP's denial. Mr. Dumke asserted that the responsive information does not come from the LEADS database, but rather from court clerks. He noted that ISP provided similar information in response to his FOIA request in 2021.

On September 8, 2022, this office sent a copy of the Request for Review to ISP and asked it to provide un-redacted copies of the responsive records and a detailed explanation of the legal and factual bases for its assertion of the above-referenced exemptions. On September 19, 2022, this office received ISP's response. On September 20, 2022, this office forwarded ISP's written answer to Mr. Dumke; he replied the same day.

### **DETERMINATION**

"All records in the custody or possession 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 140/1.2 (West 2020).

---

<sup>1</sup>E-mail from Mick Dumke, Reporter, ProPublica, to David Catlin, FOIA Officer, Illinois State Police (July 13, 2022).

<sup>2</sup>5 ILCS 140/7(1)(a) (West 2021 Supp.), as amended by Public Acts 102-694, effective January 7, 2022, revised February 3, 2022; 102-791, effective May 13, 2022; 102-1055, effective June 10, 2022.

<sup>3</sup>20 Ill. Adm. Code §1240.80(d) (2023), last amended at 23 Ill. Reg. 7521, effective June 18, 1999.

<sup>4</sup>5 ILCS 140/7.5(v) (West 2021 Supp.), as amended by Public Acts 102-813, effective May 13, 2022; 102-1042, effective June 3, 2022.

<sup>5</sup>5 ILCS 140/8.5 (West 2020).

Mr. Mick Dumke  
Ms. Rhiann Martynowski  
April 20, 2023  
Page 3

In its response to this office, ISP explained that court clerks provide local law enforcement agencies with copies of court-issued firearms restraining orders. The local law enforcement agencies then enter the restraining order information into the LEADS database. ISP maintained that it does not receive firearms restraining order information directly from the courts; it accesses that information only through LEADS after it has been entered into the system by local law enforcement agencies, which retain the orders themselves.

Section 55 of the Firearms Restraining Order Act (430 ILCS 67/55 (West 2020)) describes a "[d]ata maintenance by law enforcement agencies" process that is consistent with ISP's description. Specifically, section 55(a) provides:

All sheriffs shall furnish to the Illinois State Police, daily, in the form and detail the Illinois State Police requires, copies of any recorded firearms restraining orders issued by the court, and any foreign orders of protection filed by the clerk of the court, and transmitted to the sheriff by the clerk of the court under Section 50. Each firearms restraining order shall be entered in the Law Enforcement Agencies Data System (LEADS) on the same day it is issued by the court. If an emergency firearms restraining order was issued in accordance with Section 35 of this Act, the order shall be entered in the Law Enforcement Agencies Data System (LEADS) as soon as possible after receipt from the clerk.

Section 7(1)(a) of FOIA exempts from inspection and copying "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law."

The Civil Administrative Code of Illinois (Civil Code) authorized ISP to establish LEADS for the purpose of "mak[ing] available to other law enforcement agencies for immediate dissemination data that can assist appropriate agencies \* \* \* for criminal justice and related purposes." 20 ILCS 2605/2605-375(a) (West 2021 Supp). ISP has established an administrative rule implementing the Civil Code stating that "LEADS data shall not be disseminated to any individual or organization that is not legally authorized to have access to the information." 20 Ill. Adm. Code §1240.80(d) (2023), last amended at 23 Ill. Reg. 7521, effective June 18, 1999. LEADS data, which is prohibited from being disclosed to the public, includes information transmitted through LEADS. *Better Government Association v. Zaruba*, 2014 IL App (2d) 140071, ¶27, 21 N.E. 3d 516, 525 (2014) ("The regulations make clear that the public is not entitled to view or possess data that is transmitted through, received through, or stored in LEADS."). Mr. Dumke, as a member of the media, does not meet the criteria for accessing

Mr. Mick Dumke  
Ms. Rhiann Martynowski  
April 20, 2023  
Page 4

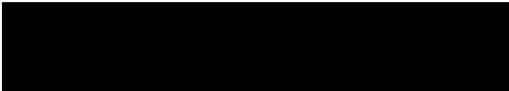
LEADS set forth in section 1240.30(c) of title 20 of the Administrative Code (20 Ill. Adm. Code §1240.30(c) (2023), last amended at 23 Ill. Reg. 7521, effective June 18, 1999).

In his reply, Mr. Dumke questioned why ISP could post certain firearms restraining order data on its website, but could not provide similar data to him. Section 85 of the Firearms Restraining Order Act requires that ISP "shall submit a yearly report to the General Assembly or make available on its website the number of petitions entered into the Law Enforcement Agencies Data System." 430 ILCS 67/85 (West 2021 Supp.), as amended by Public Act 102-345, effective June 1, 2022. Accordingly, the law authorizes ISP to disclose the number of petitions entered into LEADS. It does not, however, authorize ISP to disclose the detailed information concerning firearms restraining orders that Mr. Dumke requested.

Because ISP's only access to firearms restraining order data is through LEADS and because it is specifically prohibited from disseminating LEADS data to unauthorized parties, this office concludes that ISP did not improperly deny Mr. Dumke's request pursuant to section 7(1)(a) of FOIA.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter serves to close this matter. If you have any questions, please contact me at (217) 843-0564 or [laura.harter@ilag.gov](mailto:laura.harter@ilag.gov).

Very truly yours,



LAURA S. HARTER  
Deputy Bureau Chief  
Public Access Bureau

73240 f 71a proper sa