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SPRINGFIELD

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ADMINISTRATIVE LAW:
The Entry of Civil Capias
Into LEADS

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103 Armory
Springfield, Illinois 62706

Dear Mr. Zagel:

I have your letter wherein you inquire regarding the operation of the Law Enforcement Agency Data System (LEADS) by the Illinois Department of Law Enforcement (the Department). You first ask whether civil capias writs may lawfully be entered into the LEADS network in an effort to execute such writs on a State-wide basis.

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"Capias" is the "general name for several species of writs, the common characteristic of which is that they require the officer to take the body of the defendant into custody". (Black's Law Dictionary 188 (5th ed. 1979).) A writ of body attachment for contempt of court is an example of a civil capias writ. A criminal arrest warrant, on the other hand, is a writ commanding "that the person against whom the complaint was made be arrested and brought before the court issuing the warrant". (Ill. Rev. Stat. 1983, ch. 38, par. 107-9(d)(6).) Despite the fact that the civil capias emanates from a civil suit while the warrant is a process of a criminal action, the command of the two writs is essentially the same; a court is ordering peace officers or other persons duly appointed by the court to take the person of the defendant into custody and hold such person according to law.

Section 55a of The Civil Administrative Code of Illinois (Ill. Rev. Stat. 1985 Supp., ch. 127, par. 55a), provides in part as follows:

" * * *

6. To (a) acquire and operate one or more radio broadcasting stations in the State to be used for police purposes, (b) operate a statewide communications network to gather and disseminate information for law enforcement agencies, (c) operate an electronic data processing and computer center for the storage and retrieval of data pertaining to criminal activity, (d) undertake such other communication activities as may be required by law, (e) based upon personal

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identifiers only, conduct an employment inquiry, without charge, upon the request of an unit of local government or school district to ascertain whether an employee or prospective employee of the unit or district has been convicted on a charge of violation of a penal statute of this State. Such information of conviction shall be furnished to an unit of local government or school district and shall be used by the unit or district for the sole purpose of evaluating the character and qualifications of the employee or prospective employee in relation to his employment.

* * *

"

(Emphasis added.)

Pursuant to section 55a, the Department has established and has been operating LEADS, which is a data processing and computer system used to gather and distribute information to law enforcement agencies on a State-wide basis, and it is clear, under the aforementioned statute, that the operation of LEADS is not restricted solely to disseminating information pertinent to criminal activity. Rather, LEADS may properly be used to gather and distribute other categories of information which may be useful to law enforcement agencies. It is my understanding that LEADS is currently being employed by the Department pursuant to authority conferred upon it by section 55a of The Civil Administrative Code of Illinois to gather, maintain and disseminate several varieties of information. First of all, there is a data base for what is commonly referred to as "hot files", which generally includes data pertaining to criminal

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activity. The LEADS network is also operated as a device to distribute information regarding liquor licenses, boat registrations, drivers' licenses, automobile registrations and titles, and weather and road conditions, all of which may be useful to law enforcement agencies but which may not directly relate to criminal activities.

Information regarding the issuance of civil capias writs would be useful to all law enforcement agencies in the State in the execution of their official duties. Based upon the power of the Department to operate a State-wide communications network to gather and disseminate information for law enforcement agencies, it appears that information pertaining to civil capias writs may lawfully be entered into the LEADS network if the Department administratively determines that such information should be entered into the network for distribution on a State-wide basis.

While an administrative agency may not issue regulations or rules which exceed or alter its statutory powers, or which are contrary to the legislative purpose and intent, it is well established that an administrative agency, charged with the duty to enforce or administer a statute, has authority to regulate and execute the provisions of the statute. (Eastman Kodak Co. v. The Fair Employment Practices Comm'n (1981), 86 Ill. 2d 60, 70; Production Tool Corp. v. Employment and

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Training Administration, U.S. Dep't of Labor (7th Cir. 1982), 688 F.2d 1161, 1166.) See also section 16 of The Civil Administrative Code of Illinois (Ill. Rev. Stat. 1983, ch. 127, par. 16), which empowers the director of each department to prescribe regulations for the government of the department, and the distribution and performance of its business, and the custody, use and preservation of the records, papers, books, documents and property pertaining thereto. Since the General Assembly has not expressly identified the kinds of information the Department may gather and disseminate for law enforcement agencies through a State-wide communications network, in the execution of section 55a of The Civil Administrative Code of Illinois, the Department may administratively determine what types of information should be gathered and disseminated so long as the Department does not exceed or alter its statutory powers. The civil capias writs appear to be within the scope of section 55a of The Civil Administrative Code of Illinois and thus, may lawfully be entered into LEADS. Accordingly, it is my opinion that the Department may administratively determine whether or not to enter civil capias writs into the LEADS network.

You next inquire whether criminal arrest warrants, body attachments, and civil capias writs may lawfully be entered into the LEADS network with mileage limitations placed

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thereon by the initiating law enforcement agency. Such limitations are used to indicate that the initiating law enforcement agency will not spend the resources necessary to pick up the person named in the writ, or otherwise cause the transportation of such person to the locale of the initiating law enforcement agency, if that person is apprehended beyond the mileage limitation.

A warrant of arrest is defined at section 107-1 of the Code of Criminal Procedure of 1963 (Ill. Rev. Stat. 1983, ch. 38, par. 107-1) as a "written order from a court directed to a peace officer, or to some other person specifically named, commanding him to arrest a person". Section 107-9 of the Code of Criminal Procedure of 1963 (Ill. Rev. Stat. 1983, ch. 38, par. 107-9) further describes a warrant as follows:

" * * *

(d) The warrant of arrest shall:

(1) Be in writing;

(2) Specify the name of the person to be arrested or if his name is unknown, shall designate such person by any name or description by which he can be identified with reasonable certainty;

(3) Set forth the nature of the offense;

(4) State the date when issued and the municipality or county where issued;

(5) Be signed by the judge of the court with the title of his office;

(6) Command that the person against whom the complaint was made be arrested and brought

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before the court issuing the warrant or if he is absent or unable to act before the nearest or most accessible court in the same county; and

(7) Specify the amount of bail.

(e) The warrant shall be directed to all peace officers in the State. It shall be executed by the peace officer, or by a private person specially named therein, and may be executed in any county in the State. (Emphasis added.)

Section 2 of "AN ACT to revise the law in relation to criminal jurisprudence" (Ill. Rev. Stat. 1983, ch. 125, par. 82) provides as follows:

"It shall be the duty of every sheriff, coroner, and every marshal, policeman, or other officer of any incorporated city, town or village, having the power of a sheriff, when any criminal offense or breach of the peace is committed or attempted in his or her presence, forthwith to apprehend the offender and bring him or her before a judge, to be dealt with according to law; to suppress all riots and unlawful assemblies, and to keep the peace, and without delay to serve and execute all warrants and other process to him or her lawfully directed."
(Emphasis added.)

It must be emphasized that the duty to execute an arrest warrant is not limited to the peace officers of the county from which the warrant is issued; by the express terms of the aforementioned statutes, the duty to execute an arrest warrant extends to all peace officers of this State.

Since a warrant is an order or command by a court to every peace officer in the State of Illinois to arrest the

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defendant and bring the person of the defendant before a court of competent jurisdiction, it is my opinion that no law enforcement agency may place mileage limitations or other conditions upon the execution of the warrant; the only party which may stipulate limitations or conditions is a court with competent jurisdiction. Accordingly, it is my opinion that mileage limitations, as described above, placed upon a warrant by any party other than a court are inoperative and void.

Similarly, a civil capias writ is also an order or a command of the court subject to condition, limitation or revision only by a court of competent jurisdiction. Therefore, it is my opinion that mileage limitations placed by parties other than a court upon civil capias writs entered into the LEADS network are also inoperative and void.

Very truly yours,



A T T O R N E Y G E N E R A L