

July 23, 2015

VIA E-MAIL

Ms. Patricia Dillow
Paralegal
Costello, McMahon, Burke & Murphy, Ltd.
Email: PDillow@costellaw.com

RE: 15-FOIA-140 Police Report #14-034578 – [REDACTED]

Dear Ms. Dillow:

We are in receipt of your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* (“FOIA”).

I. Background

On July 14, 2015, we received your request for a full and complete copy of a report referencing an incident occurring on September 13, 2014 involving [REDACTED] (“Request”). Your Request is granted in part and denied in part.

II. Responsive Document

In response to your Request, Metra’s Police Department is providing you with a copy of the above-referenced police report.

III. Partial Denial

While FOIA requires public bodies to provide access to public records generally, FOIA also authorizes units of government to withhold certain information. Therefore, Attorney Thomas Stuebner has determined that the following portions of the report are exempt from disclosure under certain provisions of FOIA:

1. The personal telephone numbers, home address, driver’s license number and medical records of the party mentioned in the report are being redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “Personal telephone numbers,” “home addresses,” “driver’s license numbers,” and “medical records” are specifically mentioned within the definition of “private information” found in Section 2(c-5) of FOIA.
2. The date of birth of the party and name of the third-party mentioned in the report are being redacted because they are exempt from disclosure under Section 7(1)(c) of FOIA, which exempts “personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy....” Section 7(1)(c) goes on to say that, “ ‘Unwarranted invasion of personal privacy’ means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject’s right to privacy outweighs any legitimate public interest in obtaining the information.” It has been determined that the aforementioned data falls squarely within that definition and its redaction is appropriate under FOIA.
3. Section 7(1)(a) of FOIA exempts “[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.” 5 ILCS 140/7(1)(a). Accordingly, the home address, date of birth, driver’s license number, and physical description of the

party mentioned in the report is exempt from disclosure per the Driver's Privacy Protection Act, 18 U.S.C. § 2721 *et seq.*, which prohibits individuals from knowingly obtaining or disclosing "personal information" from a motor vehicle record.

IV. Denial

The RC 4005 form mentioned in the Responsive Document is denied for the following reasons: Damage and injury reports are exempt under 5 ILCS 140/7(1)(m) and 5 ILCS 140/7(1)(s). 5 ILCS 140/7(1)(m) authorizes exemption from disclosure of "[m]aterials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body..." Damage and injury reports are prepared by Metra for several reasons, one of which is in anticipation of any possible legal proceedings that may stem from the occurred incident. Additionally, the above-mentioned reports are also exempt under 5 ILCS 140/7(1)(s), which authorizes exemption from disclosure of "loss or risk management information, records, data, advice or communications." These reports are maintained by Metra's Risk Management Department as part of its duties to identify, assess, and manage risks. Accordingly, the above-mentioned report is hereby denied.

V. Right of Review

You have the right to have the partial denial of your Request reviewed by the Public Access Counselor ("PAC") of the Illinois Attorney General's Office. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: 217-782-1396
E-mail: publicaccess@atg.state.il.us.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this partial denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this partial denial letter when filing a Request for Review with the PAC.

You also have the right to seek judicial review of your partial denial by filing a lawsuit in the circuit court. 5 ILCS 140/11.

If I can be of further assistance to you, please do not hesitate to contact me.

Sincerely,



Kathleen E. Haton
Freedom of Information Officer
FOIA@metrarr.com

Attachment