



August 2, 2019

**VIA E-MAIL**

Ms. Mary Wisniewski

Chicago Tribune

Email: [mwisniewski@chicagotribune.com](mailto:mwisniewski@chicagotribune.com)

RE: 19-FOIA-197 Info - Jennifer Soto

Dear Ms. Wisniewski:

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 19, 2019, we received your request for information relating to misconduct committed by employee Jennifer Soto. Specifically, you requested records related to Ms. Soto’s case, including:

- any memos, emails and other documents detailing her misconduct;
- documents related to her eventual discipline and/or dismissal; and
- any emails or other correspondence between Metra officials and State Rep. Cynthia Soto regarding the discipline proceedings against Jennifer Soto

(“Request”). Your Request is granted in part and denied in part

**II. Responsive Documents**

In response to your Request, Metra is providing you with three (3) internal emails dated 5/20/2019, 6/18/2019 and 6/19/2019, regarding Jennifer Soto (“Responsive Documents”).

**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 Aruj Chaudhry has determined that the following portions of the Responsive Documents are exempt from disclosure under certain provisions of FOIA:

1. The personal financial information contained in the Responsive Documents is redacted because it is exempt from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “Personal financial information” is specifically mentioned within the definition of “private information” found in Section 2(c-5) of FOIA.
2. The name of a third-party mentioned in the Responsive Documents is redacted because it is 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.

After performing a diligent search of Metra’s records, we have been unable to locate any records responsive to that portion of your Request which asks for any emails or other correspondence between Metra officials and State Rep. Cynthia Soto regarding the discipline proceedings against Jennifer Soto.

#### **IV. Denial**

The records identified as responsive to the Request, are being withheld in their entirety under the following Sections of the FOIA:

1. One (1) email containing a personal email address, personal communication and a recommendation, is withheld pursuant to Sections 7(1)(b), 7(1)(c) and 7(1)(f), respectively:
  - (i) Section 7(1)(b) of FOIA, exempts “private information.” “Personal email addresses” are specifically mentioned within the definition of “private information” found in Section 2(c-5) of FOIA.
  - (ii) Section 7(1)(c) 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.”
  - (iii) Section 7(1)(f) states records that are, “[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated . . . [.]” are exempt from disclosure. 5 ILCS 140/7(1)(f). As this email contains a recommendation for action, Attorney Aruj Chaudhry has determined exempting this information from disclosure is proper under the FOIA. 5 ILCS 140/7(1)(f).
2. The remaining eight (8) emails containing draft correspondence, email records pertaining to Ms. Soto’s discipline/dismissal as well as union correspondence relating to disciplinary action, are exempt from disclosure in their entirety under Sections 7(1)(f) and 7(1)(n), respectively:
  - (i) Section 7(1)(f) states records that are, “[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated . . . [.]” are exempt from disclosure. 5 ILCS 140/7(1)(f). These emails contain preliminary drafts and recommendations and per Attorney Aruj Chaudhry, are properly exempt from disclosure under the FOIA. 5 ILCS 140/7(1)(f).
  - (ii) Section 7(1)(n) states that “[r]ecords relating to a public body's adjudication of employee grievances or disciplinary cases” shall be exempt. “However, this exemption shall not extend to the *final outcome of cases in which discipline is imposed.*” [emphasis added] The Organization’s grievance on behalf of Ms. Soto is currently pending in arbitration. Accordingly, there has been no final outcome regarding disciplinary action. As such, it has been determined by Attorney Aruj Chaudhry that email records and union correspondence

relating to the disciplinary action are properly exempt from disclosure per Section 7(1)(n) of FOIA. 5 ILCS 140/7(1)(n).

3. The investigation transcript, exhibits, and a Financial Affairs Discipline Log are exempt from disclosure in their entirety under Section 7(1)(n) which states that “[r]ecords relating to a public body's adjudication of employee grievances or disciplinary cases” shall be exempt. “However, this exemption shall not extend to the *final outcome of cases in which discipline is imposed.*” [emphasis added]. The Organization’s grievance on behalf of Ms. Soto is currently pending in arbitration. Accordingly, there has been no final outcome regarding disciplinary action. Attorney Aruj Chaudhry has determined that the above-referenced records are properly exempt from disclosure per Section 7(1)(n) of FOIA. 5 ILCS 140/7(1)(n).

## 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](mailto: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 we can be of further assistance to you, please do not hesitate to contact us.

Sincerely,



Kathleen E. Haton  
Freedom of Information Officer  
[FOIA@metrarr.com](mailto:FOIA@metrarr.com)  
FOIA Hotline #312-663-3642

Attachments