



August 5, 2019

VIA E-MAIL

Mr. David Macek
Spahn Breckinridge & Associates
Email: dave@spahnbreckinridge.com

RE: 19-FOIA-204 MP Report re Cary Station Incident on 2019-07-02

Dear Mr. Macek:

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 23, 2019, we received your request for a copy of the Metra Police accident report (to include any and all photos and supplementary reports), for the fatal accident of 07/02/2019 at the Cary, IL Metra stop at about 7 a.m. (“Request”). Your Request is granted in part and denied in part.

II. Responsive Documents

In response to your Request, Metra’s police department is providing you with a copy of Metra Police Report No. MP-19-00031660, its supplemental report, Cary Police Department Report No. CA-19-004242, its supplemental report, and three witness statements.

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 Keith Pardonnet has determined that the following portions of the Responsive Documents are exempt from disclosure under certain provisions of FOIA:

1. The social security number, driver’s license numbers, employee identification numbers, passwords or other access codes, personal telephone numbers, and home addresses of the parties mentioned in the Responsive Documents are redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “Unique identifiers,” “driver’s license numbers,” “employee identification numbers,” “passwords or other access codes,” “personal telephone numbers,” and “home addresses,” are specifically mentioned within the definition of “private information” found in Section 2(c-5) of FOIA.
2. The names of third-parties, dates of birth, and physical descriptions of the parties mentioned in the Responsive Documents are 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). As such, under the Identity Protection Act, “[N]o person or State or local government agency may . . . [p]rint an individual’s social security number on any materials . . . through . . . electronic mail[.]” Further, Section 10(b)(1) prohibits the disclosure of a social security number, unless:

“(i) required to do so under State or federal law, rules, or regulations, or the collection, use, or disclosure of the social security number is otherwise necessary for the performance of that agency's duties and responsibilities; (ii) the need and purpose for the social security number is documented before collection of the social security number; and (iii) the social security number collected is relevant to the documented need and purpose.” 5 ILCS 179/10(a)(4).

IV. Denial

The photographs referenced in the Responsive Documents are denied in their entirety 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 denial is appropriate under FOIA.

VI. 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 we can be of further assistance to you, please do not hesitate to contact us.

Sincerely,



Angela K. Ollie
Freedom of Information Officer
foia@metrarr.com
FOIA Hotline #312-663-3642

Attachments