



December 19, 2016

Via Email and Regular U.S. Mail

Ms. Maria Flamburis

Re: 16-FOIA-307- Any and All Reports re incident on Southwest Service

Dear Ms. Flamburis,

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 December 3 2016, we received your request for any and all police reports, detective and officer field notes, witness statements, criminal complaints, defendant statements both written and verbal, and any other reports or lists associated with an incident which occurred on November 21, 2016 on Metra train #804 (“Request”). On December 12, 2016 we sent you an email informing you that your request as written was overly broad and unduly burdensome thereby requesting that you narrow your request. You replied that you are in need of police reports, detective statements and witness statements for this incident. Your Request is granted in part and denied in part.

II. Responsive Document

In response to your Request, Metra is providing you with the Metra Police Report #MP-16-000-43383 (“Responsive Document”).

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 Responsive Documents are exempt from disclosure under certain provisions of FOIA:

1. The driver’s license number, employee identification numbers, passwords, personal telephone numbers, and home addresses of the parties mentioned in the Responsive Documents are being redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “Driver’s license numbers,” “employee identification numbers,” “passwords,” “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 dates of birth and the physical descriptions of the parties mentioned in the Responsive Documents 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 any physical description of the parties mentioned in the Responsive Document are 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 Arrest Packet mentioned in the Responsive Document is exempt from disclosure because the information in the Arrest Packet was generated exclusively from the Law Enforcement Agencies Database System (“LEADS”). Law enforcement agencies must keep LEADS documents confidential from any unauthorized user. *20 Ill. Admin Code 1240.50*. Disclosing a LEADS document in response to a FOIA request could threaten the public body’s access to LEADS. *20 Ill. Admin Code. 1240.110*. It has been determined that the aforementioned Arrest Packet falls squarely within that definition and its denial is appropriate under FOIA.

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.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Hatch".

Sonserese Hatch
Freedom of Information Officer
foia@metrarr.com
FOIA Hotline #312-663-3642

Attachments