

January 28, 2016

**VIA FAX**

Mr. Dennis M. Lynch  
Healy Scanlon Law Firm  
**FAX No.:** 312-977-0795

RE: 16-FOIA-014 Records – [REDACTED] Accident 12/18/2015

Dear Mr. Lynch:

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 January 19, 2016, we received your request for Metra to maintain and preserve a copy of the document signed by your client, [REDACTED], regarding an accident which occurred on December 18, 2015, as well as any and all information relating to this incident, including any and all videotapes, recordings, photographs, digital images, video obtained via any on-board or otherwise surveillance, or other camera that is in the possession of Metra, its employees, agents, and third-parties. (“Request”). Your Request is granted in part and denied in part.

**II. Responsive Document**

In response to your Request, Metra is providing you with a copy of police report #15-34820 (“Responsive Document”).

After performing a diligent search of Metra’s records, we have been unable to locate any additional records responsive to your Request regarding a document signed by your client; or videotapes, recordings, photographs, digital images, or video obtained via any on-board or otherwise surveillance, or other camera that is in the possession of Metra, its employees, agents, and third-parties.

**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 Document are exempt from disclosure under certain provisions of FOIA:

1. The employee identification numbers, passwords and the driver’s license number of the parties mentioned in the Responsive Document are being redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “Employee identification numbers,” “passwords” and “driver’s license numbers” 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 mentioned in the Responsive Document is being 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.
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 date of birth and driver’s license number of the party 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 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](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.

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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](mailto:foia@metrarr.com)  
FOIA Hotline #312-663-3642

Attachment