

February 1, 2016

VIA U.S. MAIL

Mr. Matthew M. Gannon
Healy Scanlon Law Firm
111 W. Washington St., Ste. 1425
Chicago, IL 60602

RE: 16-FOIA-019 All Info – [REDACTED] 12/7/2015

Dear Mr. Gannon:

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 25, 2016, we received your request for the following in connection with an accident involving [REDACTED] and Metra train #2202 on 12/7/15, at or near the River Grove Metra Station:

- Witness statements;
- Accident reports; and
- Any and all other written information related to this incident

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

II. Responsive Documents

In response to your Request, Metra is providing you with a DVD containing:

- Police Report #15-34766, with witness statement included;
- Accident Reconstruction Diagrams;
- Tabular Data File Cab #8541 from train #2202;
- Tabular Data File Locomotive #405 from train #2202; and
- An event recorder legend

(“**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 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, personal telephone numbers, home addresses, social security number, driver's license numbers, and vehicle license plate 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," "personal telephone numbers," "home addresses," "social security numbers," "driver's license numbers," and "vehicle license plate numbers" are specifically mentioned within the definition of "private information" found in Section 2(c-5) of FOIA.
2. The dates of birth, name of a third-party, law enforcement results of background checks, and the physical descriptions of the parties mentioned in the Responsive Document 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 addresses, dates of birth, driver's license numbers, and physical descriptions 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.

Additionally, per 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. 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

Enclosure