



October 24, 2016

U. S. MAIL

Mr. Jeffrey S. Caudill
Investigator
333 Michael John Drive
Park Ridge, IL 60068

RE: 16-FOIA-262 Info - [REDACTED] 3/15/2016

Dear Mr. Caudill:

We are in receipt of your request under the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* (“FOIA”).

I. Background

On October 13, 2016, we received your request for any and all Metra police reports #MP-16-00009108, including all incident and supplemental reports and photos, in CD format, regarding an incident involving [REDACTED] which occurred on March 15, 2016, at approximately 3:45 p.m., in the vicinity of 2330 S. Pulaski Rd., Chicago (“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 police report #MP-16-00009108, supplemental report, accident diagram, and photos (“Responsive Documents”).

After performing a diligent search of Metra’s records, we have been unable to locate any of the records regarding outside agency reports as referenced within the Responsive Documents. Metra’s Police Department states they do not maintain records of outside agencies. You may submit your request for records to:

Cook County Medical Examiner’s Office
Case #ME 2016-1320
2121 W Harrison St.
Chicago, IL 60612
Telephone: 312-666-0500

Chicago Police Department - Records Division (Unit 163)
Report #HZ188271
Attn: FOIA Officer
3510 S. Michigan Ave.
Chicago, IL 60653
foia@chicagopolice.org

Chicago Fire Department
Event #09646
Freedom of Information Officer
3510 S. Michigan Avenue
Chicago, Illinois 60653
Email: CFDFOIA@cityofchicago.org
Fax: 312-745-3900

BNSF Police Department
Report #1611000835
Website Inquiry Form: <http://www.bnsfmedia.com/go/inquiry/7090/>

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 Jamie Harrmann 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 number, passwords, personal telephone number, home address, and personal 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." "Driver's license numbers," "employee identification numbers," "personal telephone numbers," "home addresses," and "personal 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 and 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 address, date of birth, driver's license number, and any physical description 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 certain graphic photographs are denied in their entirety under Section 7(1)(c) of FOIA. These graphic photographs contain information relating to the death of an individual. In the interest of protecting the personal privacy of the deceased, these documents are denied pursuant to the exemption

found in Section 7(1)(c) of the 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.” 5 ILCS 140/7(1)(c).

Further, the RC 4005 form mentioned in the Responsive Documents 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). Section 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 Section 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.

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
FOIA Hotline #312-663-3642

Enclosure