

October 28, 2015

VIA U.S. MAIL

Ms. Mary Swiatek

Email: [REDACTED]

RE: 15-FOIA-218 Police Report #15-48107

Dear Ms. Swiatek:

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 October 21, 2015, we received your request for an incident report regarding an incident that occurred on train #147 on October 7, 2015 (“Request”). On October 21, 2015, we contacted you asking for additional information regarding the incident. You replied that it occurred at about 9:40pm, October 7, 2015, at the 53rd St., Hyde Park stop and that you called and made the report on October 19, 2015. Your Request is granted in part and denied in part.

II. Responsive Documents

In response to your Request, Metra is providing you with a copy of police report #15-48107 (“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 Document are exempt from disclosure under certain provisions of FOIA:

1. The employee identification number, home addresses, personal telephone numbers, vehicle license plate number, and driver’s license numbers of the parties mentioned in the report are being redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “Employee identification numbers,” “home addresses,” “personal telephone numbers,” “vehicle license plate numbers,” 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 report 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 home address, date of birth, driver's license number, sex, race, height, weight, hair and eye color of the party mentioned in the report is 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 police report 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.

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,



Jamie V. Harrmann
Freedom of Information Officer
foia@metrarr.com
FOIA Hotline #312-663-3642

Attachment