

February 25, 2016

VIA E-MAIL

Ms. Rhianna Biernat
Law Clerk
Susan E. Loggans & Associates, P.C.
Email: rbiernat@logganslaw.com

RE: 16-FOIA-039 Any/All Info - Accident 10/28/2015 Riverdale

Dear Ms. Biernat:

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 February 17, 2016, we received your request for a copy of any and all photographs, accident reports, statements, etc., regarding an accident that occurred on October 28, 2015, on southbound Halsted Street approaching the intersection with 138th Street in Riverdale, Illinois, involving [REDACTED] (“**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 Metra police report #15-34551 with accompanying photographs (“**Responsive Document**”).

After performing a diligent search of Metra’s records, we have been unable to locate any additional records responsive to your Request. The Riverdale police report #15-13468 and the video referenced in the Responsive Document were not provided to the Metra Police Department. You may request these records by contacting:

Riverdale Police Department
725 W. 138th St.
Riverdale, IL 60827
Telephone: 708-841-2203

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 number, and the 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.” “Driver’s license number,” “employee identification

numbers,” “passwords,” “medical records,” “personal telephone numbers,” “home addresses,” and “personal license plates” 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 addresses, dates of birth, driver’s license numbers, and any 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.

IV. Denial

The Responsive Document references injury reports, a/k/a RC 4005 forms. These documents are 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 injury reports are 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.

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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,

A handwritten signature in blue ink that reads "Kathleen E. Haton".

Kathleen E. Haton
Freedom of Information Officer
foia@metrarr.com
FOIA Hotline #312-663-3642