

May 17, 2016

VIA U. S. MAIL

Ms. Diane Sicher, Agent
EMSI
P.O. Box 2729
Jacksonville, FL 32203

RE: 16-FOIA-122 Incident Report – 11/21/2015; Your Case No.: [REDACTED]

Dear Ms. Sicher:

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 May 3, 2016, we received your request for the report for an incident occurring on November 21, 2015 at a railroad station 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 Metra Police Department report #15-34699 (“**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 social security number, driver’s license number, employee identification number, password, 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.” “Social security numbers,” “driver’s license numbers,” “employee identification numbers,” “passwords,” “personal telephone numbers,” and “home addresses” are specifically mentioned within the definition of “private information” found in Section 2(c-5) of FOIA.
2. The dates of birth, physical descriptions, names of third-parties, the witness, and the results of background records 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.

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. Denial

The supplemental report mentioned in the Responsive Document is exempt from disclosure in its entirety under 5 ILCS 140/7(1)(d) of FOIA which exempts:

[r]ecords in the possession of any public body created in the course of . . . any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would . . . (iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative [or] investigative . . . agencies[.]

5 ILCS 140/7(d)(iv).

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:

Ms. Diane Sicher / EMSI

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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