



August 16, 2016

VIA E-MAIL

Mr. Matthew J. McCarter
Associate Attorney
Kelly & Ignoffo Law Group, P.C.
Email: mccarter@kellyignoffo.com

RE: 16-FOIA-201 Any/All Photos, Videos, etc. - [REDACTED] Accident

Dear Mr. McCarter:

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 August 9, 2016, we received your request for information regarding the train accident that occurred on June 28, 2016, in the area around 115th Street and Front Avenue, Chicago, involving [REDACTED]. Specifically, you requested any and all photographs, videotapes, surveillance footage or other images in the possession of Metra of either the collision involving [REDACTED] or any other images of [REDACTED] (“Request”).

II. Responsive Documents

In response to your Request, Metra is providing you with the videos retrieved from the inbound Metra Electric train no. 712 which struck [REDACTED], and photos taken at the accident scene (“Responsive Documents”). Please note that the videos include graphic content that may be disturbing to watch.

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 driver’s license number and home address of the party mentioned in the Responsive Documents are being redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “Driver’s license number,” and “home addresses” are specifically mentioned within the definition of “private information” found in Section 2(c-5) of FOIA.
2. The date of birth and physical description of the party 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 Documents 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. 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

Attachments