



September 26, 2016

**VIA EMAIL and U.S. MAIL**

Mr. Sean T. Holmes

RE: 16-FOIA-232 Police Report #MP-16-00032216

Dear Mr. Holmes:

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 September 19, 2016, we received your request for police report #MP-16-00032216 (“**Request**”). Your Request is granted in part and denied in part.

**II. Responsive Document**

In response to your Request, Metra is providing you with the above-referenced report (“**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 Jamie Harrmann 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, employee identification number, password, medical records, personal telephone number, 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,” “passwords,” “medical records,” “personal telephone numbers,” and “personal license plate number” and are specifically mentioned within the definition of “private information” found in Section 2(c-5) of FOIA.
2. The dates of birth, certain photographs showing bodily injuries, and the 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 information 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.

Should you wish to obtain unredacted portions of the medical records and photos of the bodily injuries, you will need to verify certain personal information before we can release this information. Please contact us at 312-663-3642.

After performing a diligent search of Metra’s records, we have been unable to locate the Orland Park Police traffic crash report mentioned in the Responsive Document. Metra’s Police Department advised that they do not maintain records of outside agencies. You may submit your request for this record by contacting:

The Village of Orland Park  
14700 Ravinia Avenue  
Orland Park, IL 60462  
Telephone: 708-403-6140  
Website: <http://www.orland-park.il.us/>

#### **IV. Denial**

The RC 4005 form mentioned in the Responsive Document 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.

#### **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:

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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](mailto: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,



Sonserese Hatch  
Freedom of Information Officer  
[foia@metrarr.com](mailto:foia@metrarr.com)  
FOIA Hotline #312-663-3642

Attachment / Enclosure