



October 6, 2016

**VIA EMAIL**

Mr. Kyle Kasmarick  
The Law Offices of Nicholas C. Syregelas  
Email: [kkasmarick@syregelaslaw.com](mailto:kkasmarick@syregelaslaw.com)

RE: 16-FOIA-235 Info - [REDACTED]

Dear Mr. Kasmarick:

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 22, 2016, we received your request for: Any and all audio, video, still footage and event data regarding the crossing, signal and train involved in a collision with [REDACTED] on August 8, 2016 at approximately 7:40 a.m. in Oak Lawn (Central Ave. and Edison Ave.). Specifically, you asked for the audio, video and data from the locomotive, crossing or signals, any witness statements, and any Metra police investigation materials including notes, reports, photos and videos (“Request”). Your Request is granted in part and denied in part.

**II. Responsive Documents**

In response to your Request, Metra is providing you with the following:

- Metra Police Report #MP-16-00028793; with witness statements, statement from signal maintainer regarding the railroad gates, and photos;
- Supplemental Police Report #MP-16-00028793, with diagram;
- Illinois Traffic Crash Report #U130437682/MP-16-00028793;
- Tow sheet;
- Video with audio from train #810’s rear facing engine #214;
- Video with audio from train #810’s forward facing cab #8606;
- Video from the Street Division building of the Village of Oak Lawn facing railroad crossing; and
- Tabular data from train #810

(“Responsive Documents”).

**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 Documents are exempt from disclosure under certain provisions of FOIA:

1. The social security number, driver's license number, employee identification numbers, personal financial information, passwords, personal telephone numbers, and home addresses of the parties 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." "Social security numbers," "driver's license numbers," "employee identification numbers," "personal financial information," "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, name of the third-party, and the physical descriptions of the parties mentioned in the Responsive Documents 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 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.
4. 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[.]" Additionally, 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**

Certain graphic photographs mentioned in the Responsive Documents are denied in their entirety for the following reasons: The photographs contain information relating to the death of an individual. In the interest of protecting the personal privacy of the deceased, these documents are denied pursuant to the exemption found in Section 7(1)(c) of the 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.”

**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](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,



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

Attachments