



February 15, 2019

**VIA E-MAIL**

Sam Stecklow

South side Weekly

Email: [Sswfoia@gmail.com](mailto:Sswfoia@gmail.com)

RE: 19-FOIA-014 Request for Information re Lawsuits (South Side Weekly / Stecklow, Sam)

Dear Mr. Stecklow:

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 January 14, 2019, we received your request for documents including: **a)** All depositions taken by either side; **b)** all Metra, CPD, or any other records of any other law enforcement agency in possession of Metra; **c)** all internal disciplinary hearings; **d)** all surveillance video and police audio; **e)** the final disposition from any disciplinary proceedings; and **f)** the settlement agreements related to both, *Rikas v. Babusch, et al.*, (13-CV-2069) and *Price v. Metra, et al.* (17-CV-7250) (“Request”). Your Request is granted in part and denied in part.

**II. Responsive Documents**

In response to your Request, and as it relates to *Price v. Metra, et al.* (17-CV-7250), Metra is providing you with Metra Police Report No. 15-34452, Metra Police Ticket No. R026856, and a signed Settlement Agreement and Release. In response to your Request, and as it relates to *Rikas v. Babusch, et al.* (13-CV-2069), Metra is providing you with Metra Police Report No. 12-017170 and a signed Release of All Claims (“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 Keith Pardonet has determined that the following portions of the Responsive Documents are exempt from disclosure under certain provisions of FOIA:

1. The driver’s license number, employee identification number, medical records, personal telephone number, and home address of the parties mentioned in the Responsive Document are 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,” “medical records,” “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 names of third-party witnesses, dates of birth, and physical descriptions of the parties mentioned in the Responsive Documents, are 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, and driver’s license number of the parties mentioned in the report 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 deposition transcripts are being withheld from disclosure in their entirety under Section 7(1)(m) of the FOIA, which exempts: “[C]ommunications between a public body and an attorney . . . representing the public body that would not be subject to discovery in litigation, and materials 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 . . .”. All transcripts of depositions of medical professionals sharing medical opinions regarding the incident are withheld additionally pursuant to Section 7(1)(b) of FOIA which specifically exempts, among other things, “medical records.” As such, Attorney Keith Pardonnet has determined that these records are properly denied from disclosure under the FOIA. 5 ILCS 140/7(1)(m) and ILCS 140/7(1)(b).

#### **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:

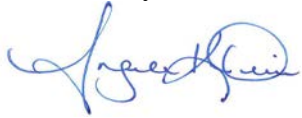
Public Access Counselor  
Office of the Attorney General  
500 South 2nd Street  
Springfield, Illinois 62706  
Fax: 217-782-1396  
E-mail: [publicaccess@atg.state.il.us](mailto:publicaccess@atg.state.il.us).

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,

A handwritten signature in blue ink, appearing to read "Angela K. Ollie". The signature is fluid and cursive, with the first name being the most prominent.

Angela K. Ollie  
Freedom of Information Officer  
[FOIA@metrarr.com](mailto:FOIA@metrarr.com)  
FOIA Hotline #312-663-3642

Attachment