



September 3, 2019

VIA E-MAIL

Ms. Brynda Streff
[REDACTED]

RE: 19-FOIA-236 MP-19-00030995

Dear Ms. Streff:

Metra's FOIA Department (the "FOIA Department") is responding to your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq. ("FOIA").

I. Background

On August 19, 2019, the FOIA Department received your request for the final report and all supporting documentation relating to the [REDACTED]. Later that same day, you updated your request include any audio or video files related to the incident ("**Request**"). Your Request is granted in part and denied in part.

On August 20, 2019, the FOIA Department contacted you via email to inform you that some of the photographs responsive to your request were graphic in nature. The FOIA Department offered to withhold the graphic photographs. On August 21, 2019, you responded and requested that the graphic photographs be withheld.

II. Responsive Documents

In response to your Request, the FOIA Department is providing you with Metra Police Report No. MP-19-00030995, a Supplemental Report, and seven photographs associated therewith ("**Responsive Documents**").

Metra does not, in the regular course of business, furnish or maintain records of outside entities. Please contact the Wheaton Police Department to access Wheaton Police Report No. WHPC1900106 as referenced in the Responsive Documents. Please contact the Cook County Coroner's Office to access Coroner's Report No. [REDACTED]06272019, as referenced in the Responsive Documents.

This incident took place on Metra's Union Pacific West line which is owned and maintained by Union Pacific. To discuss access to any relevant records they may have in their possession, please contact Ida Finnegan in their Risk Management department at (312) 777-2023.

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 Aruj Chaudhry has determined

that the following portions of the Responsive Documents are exempt from disclosure under certain provisions of FOIA:

1. The employee identification number, passwords, personal telephone number, and home address of the parties mentioned in the Responsive Documents are redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “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 graphic photographs, graphic details, 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, physical description, and driver’s license number of the parties 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.
4. The results of the LEADS inquiry are exempt from release under Section 7(1)(d-5) of FOIA which states, “A law enforcement record created for law enforcement purposes and contained in a shared electronic record management system if the law enforcement agency that is the recipient of the request did not create the record, did not participate in or have a role in any of the events which are the subject of the record, and only has access to the record through the shared electronic record management system.” The Metra Police Department only has access to this information and has no role in the creation of the information.
5. Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:
 - (i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;
 - (vii) obstruct an ongoing criminal investigation by the agency that is the recipient of the request. 5 ILCS 140/7(d)(i) and (vii).

Metra Police Department has declared this is an ongoing investigation. As such, the final Detective's Report, audio files and video files relating to the [REDACTED] are not available for release at this time.

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,



Angela K. Ollie
Freedom of Information Officer
FOIA@metrarr.com
FOIA Hotline #312-663-3642

Attachments