



May 22, 2019

VIA E-MAIL

Mr. Raymond J. Riden
c/o Avilene Ingman
McCready, Garcia & Leet, P.C.
Email: avilene@mccreadylaw.com

RE: 19-FOIA-129 [REDACTED] Accident 2/22/2019; Your File No. [REDACTED]

Dear Ms. Ingman:

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 May 8, 2019, we received your request for copies of public records relating to a fatal accident involving [REDACTED], which occurred on February 22, 2019, when he was struck by a Metra train. Specifically, you requested:

1. All documents and/or materials collected, created or maintained in connection with this matter;
2. All investigation reports;
3. Any and all video footage, converted to a nonproprietary lite viewing version of Safety View that will be compatible with any Window’s operating system

(“Request”).

I attempted to reach you by phone on May 21, however, your voice mailbox was full. I sent you an email explaining we were seeking additional time to respond to your Request, as we were still collecting and reviewing a number of records that may be responsive to your Request. I informed you that we presently had available records responsive to item #2 of your Request; specifically, Metra’s police investigation report, the police report and two (2) supplemental reports with associated photographs. These records could be provided to you on your current response due date of May 22. We requested an extension to May 31 in order to provide a supplemental response to address items #1 and #3 of your Request.

Additionally, I noted that with regard to item #3 of your Request for “Any and all video,” I explained that without specificity, this portion of your Request was overly broad. I asked if you would consider narrowing the scope of this portion of your Request to only those videos maintained by Metra.

On May 22, I left you a voice mail asking that you respond to my May 21 email and provided you my telephone number in the event you wanted to discuss your Request.

Your Request is granted in part and denied in part.

II. Responsive Documents

In response to item #2 of your Request, Metra is currently providing you with the Metra Police Investigations Division Investigative Report, Metra Police Report #MP-19-00009220, two Supplemental Reports and associated photographs (“**Responsive Documents**”).

Metra’s Police Department does not maintain records of outside entities. To obtain a copy of the Cook County Medical Examiner’s Report No. 2019-00879, as mentioned in the Responsive Documents please contact: <https://www.cookcountyil.gov/service/how-obtain-recordsreports>.

With regard to records that may be responsive to item #1 of your Request, we will provide you with a supplemental response on or before May 31. Please see Section IV below concerning item #3 of your Request.

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 Pardonnet 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 names of third-parties, 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 information falls squarely within that definition and its redaction is appropriate under FOIA.
3. Additionally, with respect to results of the Illinois State Police and the LEADS inquiries/information, such records 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 information contained within Soundex and has no role in the creation of this information.

IV. Denial

We are denying that portion of your Request for “Any and all video,” as unduly burdensome under 5 ILCS 140/3(g), which states that a public body may deny a request where “compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information.” In my email to you on May 21, I noted that with regard to item #3 of your Request for “Any and all video,” I explained that without specificity, this portion of your Request was overly broad. I asked if you would consider narrowing the scope of this portion of your Request to only those videos maintained by Metra.

Since you did not reply to my May 21 email asking that you consider narrowing the scope of item #3 of your Request to only those videos maintained by Metra; and that without specificity, your Request for “Any and all video,” was overly broad and unduly burdensome for Metra to comply with and the burden of the public body outweighs the public interest in the information; it has been determined by Attorney Keith Pardonnet that item #3 of your Request falls squarely within the parameters of 5 ILCS 140/3(g).

Please note that you may resubmit your Request for videos by narrowing the scope as noted above.

V. Right of Review

You have the right to have the 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 denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

You also have the right to seek judicial review of your denial by filing a lawsuit in the circuit court. 5 ILCS 140/11.

If we can be of further assistance to you, please do not hesitate to contact us.

Sincerely,



Kathleen E. Haton
Freedom of Information Officer
FOIA@metrarr.com

Attachments