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May 16, 2016

VIA E-MAIL

Mr. Elliot M. Samuels
Kelly, Olson, Michod, DeHaan & Richter, L.L.C.
Email: ESamuelsLaw@gmail.com; jalterson@komdr.com

RE: 16-FOIA-120 All Records / Reports Arrest of [REDACTED]

Dear Mr. Samuels:

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 3, 2016, we received your request for all records and reports relating to the arrest of [REDACTED] [REDACTED] on April 8, 2016, by Metra police officers (“**Request**”). Your Request is granted in part and denied in part.

II. Responsive Documents

In response to your Request, the Metra Police Department (“**MPD**”) is providing you with copies of the following records:

- Metra Police Report #MP-16-00012683, with photos;
- Misdemeanor Complaint;
- Recognizance Bond #I8263894;
- Prisoner Transportation Transmittal;
- CABS Mugshot Report;
- MPD Arrest Report;
- Arrest Card;
- States Attorney / Circuit Clerk filings; and
- Court Appearance Report

(“**Responsive Documents**”).

The written statement referenced in the Responsive Documents may be obtained by contacting:

Glenview Police Department
Attn: Lori Grandi
2500 East Lake Avenue
Glenview, IL 60026
Fax: (847) 729-9489
lgrandi@glenview.il.us

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

1. Unique identifiers, driver's license number, employee identification number, biometric identifiers, password, personal telephone number, and home address 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." "Unique identifiers," "driver's license numbers," "employee identification numbers," "biometric identifiers," "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, the victim's name and photographs, the name of the third-party witness mentioned in the Responsive Documents, as well as the results of a background check status, 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 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.

IV. Denial

The RC 4005 form mentioned in the Responsive Documents 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.

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.

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

Attachments