



May 16, 2019

VIA E-MAIL

Mr. Andrew S. Kryder
The Law Office of Andrew S. Kryder, LLC
Email: kryderlaw@gmail.com

RE: 19-FOIA-124 Info - Accident Involving [REDACTED] 2/22/2019

Dear Mr. Kryder:

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 April 25, 2019, we received your request for **1.** Any and all video capturing the images and movements of the Metra Train and [REDACTED] on 2/22/19. This includes, but is not limited to, video that may have been on the train, in the yard, adjacent buildings, provided by witnesses or any other video evidence known to exist. If Metra knows of video that it does not yet possess, please identify who has custody of that video; **2.** Any and all witness statements related to the above referenced accident; **3.** Any reports, conclusions, findings or determinations regarding the cause or causes of the collision; **4.** All photographs taken as part of the investigation; **5.** All measurements recorded or recovered that relate to the accident reconstruction of this accident; **6.** A copy of Metra's rules, regulations, systems, procedures, policies or guidelines that apply to the operation of train number 734 at the time of this incident including rules, regulations, systems, procedures or guidelines that apply to Metra employees operating the train number 734; **7.** The data from the train showing the speed of train in the 5 miles before the accident up to the point of the accident. Including any data that may show whether horns or warning systems were activated prior to contact between the train and Earsker Freeman; **8.** Any other documents gathered, created, consulted, referenced maintained or that were reviewed as part of the investigation surrounding this accident; **9.** Copies of any audio between train number 734 and other Metra personnel on February 22, 2019; **10.** Copies of any audio between any other Metra Trains or Metra personnel notifying other Metra Personnel that a pedestrian was near the tracks where Earsker Freeman was eventually struck on February 22, 2019; and **11.** Copies of any incident reports, video or audio recordings between Metra personnel discussing the issue of pedestrians on Metra property or near train tracks (“Request”). Your Request is granted in part and denied in part.

On May 1, 2019, I reached out to you via email to explain that portions of your Request (specifically Items No. 8 and 11), as written, were rather broad; I informed you that responding to those items as written would be unduly burdensome. As such, I asked if you would consider narrowing your Request

by eliminating those two Items, Nos. 8 and 11. On May 2, 2019, after an amiable exchange, you agreed to narrow your Request by eliminating Items No. 8 and 9.

On May 16, 2019, I again reached out to you via email. I advised that although I have gathered documents and materials responsive to your Request, I am still waiting to hear back from some departments and our Response still needs to be reviewed. I asked if you would be willing to grant us more time within which to respond. You agreed to allow us to send you what we currently have available today and to issue you a Supplemental Response on or before Friday, May 31, 2019.

II. Responsive Documents

In response to your Request, Metra is currently providing you with Metra Police Investigations Division Investigative Report, Metra Police Report No. MP-19-00009220, two Supplemental Reports, and the photographs associated therewith (“**Responsive Documents**”). Per our agreement, we will issue a Supplemental Response addressing your Request in its entirety on or before Friday, May 31, 2019.

Metra does not, in the regular course of business, furnish or maintain records of outside entities. For information on how to obtain the Cook County Medical Examiner’s Report No. 2019-00879 mentioned in the Responsive Documents, please visit: <https://www.cookcountyil.gov/service/how-obtain-recordsreports>.

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 or 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 data 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. 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