



May 3, 2019

VIA E-MAIL

Mr. Aurelio Aguilar
Gregory E. Kulis and Associates, Ltd.
Email: laguilar@kulislawltd.com

RE: 19-FOIA-123 Arrest Records 9/1/2015

Dear Mr. Aguilar:

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 29, 2019, we received your request for any and all reports for the arrest and/or detainment of [REDACTED] made on or about September 1, 2015; including all police and arrest reports for Metra Police Department's investigation on said date (“Request”).

We contacted you on April 30 to ask if you would clarify whose arrest records you were seeking and if you would consider narrowing the scope of your Request concerning “any and all reports” to only those records maintained by Metra’s Police Department. You responded indicating that you wanted the arrest reports for [REDACTED] in Lake County, Illinois on or about September 1, 2015. In a subsequent email, you agreed to narrow the scope of your Request to only those records maintained by the Metra Police Department.

Your Request is granted in part and denied in part.

II. Responsive Documents

In response to your Request, Metra’s Police Department is providing you with citation #R026674, issued to [REDACTED] on September 1, 2015 and report #15-41436 (“Responsive Documents”).

After performing a diligent search of Metra’s records, we have been unable to locate any records responsive to your Request concerning the arrest and/or detainment of [REDACTED]. Report #15-41436 of the Responsive Documents, indicate that this individual is a police officer with the Metra Police Department.

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 social security number, driver’s license number, employee identification numbers, passwords or other access codes, 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.” “Social security number,” “driver’s license numbers,” “employee identification numbers,” “passwords and other access codes,” “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 date 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, driver’s license number, and physical description of the party 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.

Additionally, per the Identity Protection Act, “[N]o person or State or local government agency may . . . [p]rint an individual’s social security number on any materials . . . through . . . electronic mail[.]” Further, Section 10(b)(1) prohibits the disclosure of a social security number, unless:

“(i) required to do so under State or federal law, rules, or regulations, or the collection, use, or disclosure of the social security number is otherwise necessary for the performance of that agency's duties and responsibilities; (ii) the need and purpose for the social security number is documented before collection of the social security number; and (iii) the social security number collected is relevant to the documented need and purpose.” 5 ILCS 179/10(a)(4).

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.

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

Sincerely,

A handwritten signature in blue ink that reads "Kathleen E. Haton".

Kathleen E. Haton

Freedom of Information Officer

foia@metrarr.com

FOIA Hotline #312-663-3642

Attachments