



Advisory Opinion 09-007

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2008). It is based on the facts and information available to the Commissioner as described below.

Facts and Procedural History:

On December 31, 2008, the Information Policy Analysis Division (IPAD) received a letter from "X," in which X asked the Commissioner to issue an advisory opinion regarding his/her right to have access to certain data the Metro Gang Strike Force maintains. In response, IPAD informed X that because the Commissioner had already specifically addressed the issue in Advisory Opinion 07-011, she would not issue an opinion.

However, IPAD was aware of the history of X's attempts to get access to data from the Strike Force, and therefore made efforts to assist X in getting access to the data. John D. Gross, Assistant Attorney General, first suggested that IPAD contact James Heimerl, then Acting Commander of the Strike Force, as responsible authority for the data, which IPAD did, in an email dated January 12, 2009. Commander Heimerl did not respond; Mr. Gross then suggested contacting Commander Chris Omodt, which IPAD did, in an email dated February 10, 2009.

IPAD's efforts to assist X in getting access to the data in question were unsuccessful. Given the unique circumstances, IPAD, on behalf of the Commissioner, wrote to Commander Omodt, in a letter dated February 19, 2009, to notify him that the Commissioner was moving forward with X's request and to ask him to provide information or support for the Strike Force's position. Commander Omodt did not submit comments.

Issue:

Based on X's request, the Commissioner will address the following issue:

Did the Metro Gang Strike Force comply with Minnesota Statutes, Chapter 13, in response to a request from X for access to data about X?

Discussion:

Pursuant to Minnesota Statutes, section 13.03, government data are public unless otherwise classified.

The Commissioner opined in Advisory Opinion 07-011:

The following analysis is based on the understanding that the Metro Gang Strike Force is a joint powers entity created by multiple counties and cities. (See Minnesota Statutes, section 471.59 – joint exercise of powers.) The Commissioner also understands that Ramsey County is the fiscal agent for the Strike Force and that Sheriff Fletcher is the responsible authority. As previous advisory opinions have discussed, for the purposes of Minnesota Statutes, Chapter 13, a joint powers entity is a statewide system. Therefore, the Strike Force is subject to the requirements of Chapter 13.

It appears the data X requested are law enforcement data classified pursuant to section 13.82. Some law enforcement data are public, some are private, and some are confidential.

Regarding any data of which X is the subject, X is entitled to gain access to the data classified as public and private. The Strike Force should have provided a response to X about these data within ten business days. (See section 13.04, subdivision 3.) X first made a request for the data in a letter dated February 15, 2007. As of the date of X's opinion request, over six weeks later, apparently X had not received any response. The Strike Force did not comply with Chapter 13.

Regarding any data of which X is not the subject, X is entitled to gain access to the data classified as public. The Strike Force should have provided a response to X about these data in a prompt and appropriate manner, and within a reasonable time. (See section 13.03, subdivision 2, and Minnesota Rules 1205.0300.) Again, by not providing any response to X before April 11, 2007, the Strike Force did not comply with Chapter 13.

Subsequently, X filed an action to compel compliance. (See Minnesota Statutes, section 13.08, subdivision 4.) The outcome, as it relates here, is that Sheriff Fletcher was not the responsible authority for the Strike Force, and X was instructed to direct his/her data request to the Strike Force office.

In a letter dated November 3, 2008, X wrote to Ron Ryan, then Strike Force Commander, stating X's understanding that Commander Ryan was the responsible authority, and asking for access to data about him/herself, which, as noted in 07-011, appear to be law enforcement data classified at section 13.82. X wrote again on December 8, 2008, because Commander Ryan did not respond. (In a press release dated December 18, 2008, the Strike Force announced that Commander Omodt was succeeding Commander Ryan, who announced his retirement earlier in 2008.)

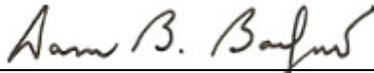
Again, as the Commissioner opined in 07-011, the Strike Force had ten business days, from the date it received X's November 3, 2008, request for data, to supply X with public and private data about X. Also, the Strike Force should have provided X with access to any public data of which X is not the subject in a prompt and appropriate manner, and within a reasonable time. The Strike Force did not comply with Chapter 13.

In addition, as a statewide system, the Strike Force is obligated to clearly identify the individual who is its responsible authority (see Minnesota Statutes, section 13.02, subdivisions 16 and 17, and Minnesota Rules, part 1205.0200, subpart 15), so that individuals may exercise the rights granted them under Chapter 13.

Opinion:

Based on the facts and information provided, my opinion on the issue that X raised is as follows:

The Metro Gang Strike Force did not comply with Minnesota Statutes, Chapter 13, in response to a request from X for access to data about X.

Signed: 
Dana B. Badgerow
Commissioner

Dated: March 24, 2009