



Advisory Opinion 10-005

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2009). It is based on the facts and information available to the Commissioner as described below.

Facts and Procedural History:

On January 21, 2010, the Information Policy Analysis Division (IPAD) received a letter dated same, from "X" (a pseudonym, used pursuant to section 13.072, subdivision 4.) In his/her letter, X asked the Commissioner to issue an advisory opinion on whether the Ramsey County Sheriff's Office violated X's rights as a subject of government data when it used X's name and address to send X an invitation to an event the Sheriff was hosting. IPAD requested additional information/clarification, which X provided on January 26, 2010.

IPAD, on behalf of the Commissioner, wrote to Bob Fletcher, Ramsey County Sheriff, in response to X's request. The purposes of this letter, dated January 27, 2010, were to inform him of X's request and to ask him to provide information or support for the Office's position. Sheriff Fletcher responded, in a letter dated February 23, 2010.

A summary of the facts follows. According to X, s/he is a holder of a permit to carry a pistol, and the permit was issued by the Sheriff's Office, pursuant to Minnesota Statutes, section 624.714. The letter of invitation was mailed to X's home address.

In his comments to the Commissioner, Sheriff Fletcher wrote:

... a potential issue may be one of whether sending correspondence to permit holders was a potential use consistent with the Tennessee Warning provided to the permit holder. It is our position that it clearly was as this correspondence was undertaken as part of the process to administer and enforce the Citizen's Personal Protection Act of 2003 in the manner noted below.

Sheriff Fletcher referred to the letter in question as "the December 2nd [2009] mailing." The letter, on Ramsey County letterhead, was addressed, "Dear Ramsey County 'Permit to Carry' Holder." The letter refers to the rise in home foreclosures and "Sheriff Sales" in Ramsey County, and describes the needs of organizations serving the homeless:

To help address this community need, the Sheriff's Office is hosting a fundraiser on December 12th & 13th to assist the organizations serving homeless families. As the holder of a Ramsey County 'Permit to Carry a Handgun' you are being invited to shoot at the Ramsey County Sheriff's Office indoor firearms range....

The letter describes the event as an opportunity to “reacquaint yourself with your handgun – improving your safety and reducing potential accidents,” describes features of “this fundraiser” and states, “[t]he suggested tax deductible donation for this experience is a \$150 check payable to one of five Ramsey County organizations serving homeless families: Catholic Charities, Union Gospel Mission, YWCA of St. Paul, The Family Place and Safe Zone.”

Issue:

Based on X’s request, the Commissioner agreed to address the following issue:

Did the Ramsey County Sheriff’s Office comply with Minnesota Statutes, Chapter 13, when it contacted gun “Permit to Carry” holders for a certain event?

Discussion:

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

Pursuant to Minnesota Statutes, section 13.87, subdivision 2, “[a]ll data pertaining to the purchase or transfer of firearms and applications for permits to carry firearms which are collected by government entities pursuant to sections 624.712 to 624.719 are classified as private”

Minnesota Statutes, section 13.05, subdivision 4, states that private or confidential data shall not be collected, stored, used, or disseminated by a government entity for any purposes other than those stated to the individual at the time of collection in accordance with Minnesota Statutes, section 13.04.

According to section 13.04, subdivision 2, when a government entity collects private or confidential data from an individual about that individual, the entity is required to provide a notice, commonly referred to as the Tennessee warning, which must contain four elements. Of relevance here is one of the required elements: the purpose and intended use of the data; in other words, why the entity is collecting the data and how it will use the data.

In his comments to the Commissioner, Sheriff Fletcher wrote:

The names and addresses of Ramsey County ‘permit to carry a pistol’ licensees/permittees were used to contact permit holders by the permitting/licensing agency, the Ramsey County Sheriff’s Office. There were two primary purposes of the contact and enclosed communication. Both purposes pertained to the permitting process and improved public safety. One assisted permit holders with their gun safety skills required by statute. The other assisted the Sheriff’s Office in performing mandatory duties under the gun permit statute.

The Tennessee Warning given to applicants advised them their information would be used to conduct background investigation of criminal histories, arrest records and warrant information to determine their eligibility to carry a pistol. This investigation includes annual required checks which are dependent upon correct addresses. Efforts to verify

accurate addresses are part of the investigative process and authorized by law. The letter was an investigative tool to verify addresses.

Minnesota Statutes, section 624.714, does not contain a provision that obligates a sheriff to provide training to permit holders. Per subdivision 2a, it states only that applicants for permits must present evidence that the applicant received training in the safe use of a pistol within one year of the date of an original or renewal application; the December 2009 letter makes no reference to this requirement.

Also, the letter makes no mention of a permit holder's obligation to notify the Sheriff of an address change. The letter, as noted above, invites permit holders to attend a fundraising event the Sheriff sponsored to benefit certain organizations that serve the homeless population of Ramsey County. Sheriff Fletcher did not provide a copy of the Tennessee warning given to permit applicants, but based upon his characterization of the notice, it apparently did not state that the Sheriff's Office would use the private data applicants provided, namely name and address, to solicit them for a fundraiser.

Further, pursuant to section 13.05, subdivision 3:

Collection and storage of all data on individuals and the use and dissemination of private and confidential data on individuals shall be limited to that necessary for the administration and management of programs specifically authorized by the legislature or local governing body or mandated by the federal government.

Section 624.714 governs the process whereby individuals may apply for a permit to carry a firearm. Subdivisions 14 and 15 restrict the maintenance and use of the data collected to activities related to "support a permit" or "verify the validity of a permit."

Pursuant to section 624.714, subdivision 14, in relevant part:

(a) A sheriff must not maintain records or data collected, made, or held under this section concerning any applicant or permit holder that are not necessary under this section to support a permit that is outstanding or eligible for renewal....

Section 624.714, subdivision 15, provides:

(a) The commissioner [of the Minnesota Department of Public Safety] must maintain an automated database of persons authorized to carry pistols under this section that is available 24 hours a day, seven days a week, *only* to law enforcement agencies, including prosecutors carrying out their duties under subdivision 8a, *to verify the validity of a permit*. [Emphasis added.]

The Commissioner respectfully disagrees that the Office's stated purposes for the letter, i.e., to "assist permit holders with their gun safety skills" and to "aid in the enforcement of [section 624.714, subdivision 7a] requiring permit holders to notify the Sheriff's Office if they change address," are uses that are authorized under section 624.714.

