



Advisory Opinion 11-014

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2011). It is based on the facts and information available to the Commissioner as described below.

Facts and Procedural History:

On August 31, 2011, the Information Policy Analysis Division (IPAD) received a letter dated August 26, 2011, from Mark Anfinson, on behalf of the Faribault Daily News. In his letter, Mr. Anfinson asked the Commissioner to issue an advisory opinion regarding the newspaper's right to gain access to certain data from the City of Faribault. IPAD asked for additional information, which Mr. Anfinson provided on September 6, 2011.

IPAD, on behalf of the Commissioner, wrote to Chuck Whiting, City Administrator, in response to Mr. Anfinson's request. The purposes of this letter, dated September 7, 2011, were to inform him of Mr. Anfinson's request and to ask him to provide information or support for the City's position. On September 23, 2011, IPAD received a response, dated same, from Scott Riggs, the City's attorney.

A summary of the facts as Mr. Anfinson provided them is as follows. The newspaper staff requested access to softball score sheets. Mr. Whiting responded that the City considered the data to be private pursuant to Minnesota Statutes, section 13.548 (social recreational data).

Newspaper staff wrote to Mr. Whiting, asking him to reconsider the City's position:

According to the statute, that citation refers very specifically to data collected and maintained by political subdivisions (cities) "for the purpose of enrolling individuals in recreational and other social programs."

Player rosters included on softball game score sheets are not collected by the city for the purpose of enrolling those individuals in the softball program. The newspaper's intent in seeking the score sheets is not to learn more about the individual players, but rather to inform our readers, as we have for years in the past, of the results of the games.

Mr. Whiting again denied access to the data.

Issue:

Based on Mr. Anfinson's opinion request, the Commissioner agreed to address the following issue:

Did the City of Faribault comply with Minnesota Statutes, Chapter 13, in denying access to city score sheets of local softball games?

Discussion:

Pursuant to Minnesota Statutes, Chapter 13, all government data are public unless otherwise classified. (Minnesota Statutes, section 13.03, subdivision 1.)

Of relevance here, Minnesota Statutes, section 13.548, classifies, as private, the name, address, telephone number, and any other identifying information about an individual that a political subdivision collects and maintains *for the purpose of enrolling individuals in recreational and other social programs*.

In his comments to the Commissioner, Mr. Riggs wrote, “The softball program in question is solely run by the City and its Park and Recreation Department.”

Mr. Riggs further explained that prior to the 2011 softball season, the City created, and made available to the public, full score sheets that included all “activities” associated with softball games - runs, hits, walks, errors, etc. He continued:

... Beginning with the 2011 softball season, the score sheets only depict the score and the names of enrolled individuals in the softball program. ... The score sheets are collected by the umpires and forwarded to the City to maintain compliance as noted herein. The dual purpose of the present score sheets is to determine that individuals are properly enrolled and able to participate in the softball program, as well as to report the final scores of the games.

Mr. Riggs defended the City’s position that the data are not public under Minnesota Statutes, section 13.548 but also wrote, “[t]he City is willing to work with the requestor and willing to provide the data upon the issuance of an advisory opinion that such score sheet data, including the names, must be produced.”

Mr. Riggs provided a copy of a blank score sheet to the Commissioner.

In his opinion request, Mr. Anfinson asserted that the data in the score sheets are not protected by Minnesota Statutes, section 13.548:

The only information that the score sheets contain is player names along with basic statistical data about the game ... However, the score sheet information – including the players’ names – is clearly not collected and maintained by the city “for the purpose of enrolling individuals in recreational and other social programs,” but only to document results of games. Thus by its own terms, §13.548 would not apply to the score sheets. Furthermore, we are not aware of any other statute that would plausibly classify the players’ names, or the remainder of the information appearing on the score sheets as not public.

Mr. Anfinson further wrote, “Even if § 13.548 could somehow be interpreted to encompass the score sheets, the names of the players would still be publicly accessible because by playing in the softball games, the players voluntarily and publicly identify themselves as participants in the recreational activity.”

He elaborated:

The situation seems closely analogous to athletic contests conducted by public schools. Even though the names of public school students linked to information about their athletic participation may not be classified as public if not listed by the school as directory information, the students voluntarily disclose their identities, and waive any privacy claims that might otherwise exist by participating in the public athletic events.

(See Advisory Opinion 03-010, in which the Commissioner opined that although videotapes of a public event, such as an athletic contest that is open to the public, might contain private data, the data subjects have, in effect, consented to release of those data by participating in the event.)

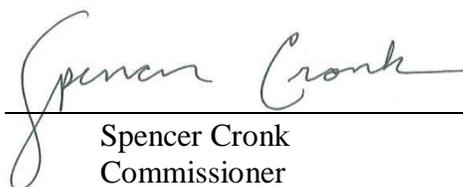
The Commissioner agrees with Mr. Anfinson that the current situation is similar to that discussed in 03-010. Although it seems the names the umpire collects at each game are private because s/he is comparing that information with enrollment data each of the participants originally provided to the City, by agreeing to participate in games that are held in a public place, the players have, in effect, given implied consent for their names to be released. The fact they are playing softball, the team they play for, and statistical information tied to each player is all public. The score of each game is public pursuant to the general presumption in Minnesota Statutes, section 13.03, subdivision 1.

Opinion:

Based on the facts and information provided, the Commissioner's opinion on the issue that Mr. Anfinson raised is as follows:

The City of Faribault did not comply with Minnesota Statutes, Chapter 13, in denying access to City score sheets of local softball games. Although the names of the players likely are private, the data subjects have implicitly given consent to release of their names and associated game data by participating in games that are open to the public.

Signed:



 Spencer Cronk
 Commissioner

Dated:

_____ October 21, 2011