

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

AMERICAN CIVIL LIBERTIES UNION OF
MINNESOTA,

Case No.:

Plaintiff,

v.

COMPLAINT

CITY OF ST. PAUL,

Defendant.

Plaintiff American Civil Liberties Union of Minnesota (“ACLU”) brings this Complaint against Defendant City of St. Paul pursuant to Minn. Stat. § 13.08 to obtain public government data being improperly withheld by Defendant. Plaintiff states and alleges as follows:

INTRODUCTION

For over eighteen months, the Saint Paul Police Department (“SPPD” or “Department”) has unlawfully refused to provide to the ACLU critical public data about its policing activities in the community, including stops, citations, arrests, and uses of force. Although Saint Paul Mayor Melvin Carter and SPPD Chief Todd Axtell have publicly committed to government transparency and police accountability, the SPPD has not produced information required by Minnesota government data laws.

The ACLU is entitled to the requested data pursuant to the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13 (“MGDPA”), which requires that the SPPD keep the requested data in “such an arrangement and condition as to make them easily accessible for convenient

use.” Minn. Stat. § 13.03 Subd. 1. However, SPPD has refused to provide the ACLU with the requested data—disregarding its obligations under the MGDPA and its leadership’s commitment to transparency and accountability.

A full accounting of officer stops, arrests, and uses of force is critical for the people of Saint Paul to ensure adequate police oversight and accountability. The data that the SPPD has provided to date is insufficient and does not provide a complete picture of its policing activities in the community. Furthermore, obtaining and analyzing the missing data is all the more critical given that racial disparities appear in the limited public data that the SPPD has made available.

Given the importance of the public data to the community, as well as the SPPD’s refusal to provide it despite a clear obligation to do so, the ACLU now comes before this Court and respectfully requests that it order the SPPD to immediately provide the requested public data.

PARTIES

1. Plaintiff ACLU, is a private, non-profit, nonpartisan organization with approximately 39,000 members and supporters in the State of Minnesota. It is the statewide affiliate of the American Civil Liberties Union. Its purpose is to protect the rights and liberties guaranteed to all Minnesotans by the Minnesota and United States Constitutions.

2. Defendant City of St. Paul (“City”) operates the St. Paul Police Department, a law enforcement agency. The City is a municipality capable of being sued under Minnesota law. The City is the legal entity responsible for the Department.

JURISDICTION AND VENUE

3. The ACLU brings this action pursuant to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01 et seq., and the Uniform Declaratory Judgment Act, Minn. Stat. § 555.01 et seq.

4. Venue in this County is appropriate pursuant to Minn. Stat. § 13.08, Subd. 3 because the City of St. Paul is located within Ramsey County.

FACTS

5. Among other things, the ACLU is committed to fostering discourse on improving community-police relations and ensuring that police departments address racial and other disparities in police stops, arrests, and uses of force.¹ As part of this effort, the ACLU collects and analyzes public data from police departments to identify areas of necessary improvement. It is only with access to this data that the ACLU is able to help the public fully understand the scope and details of policing practices. The data analysis done by the ACLU helps foster conversations with community and police leaders, as well as the general public about reforms that are needed to address racial and other disparities in treatment by police. This dialogue is necessary to ensure all individuals have safe and just interactions with the police and to ensure police transparency and accountability.

6. In pursuit of this goal, on May 29, 2018, the ACLU submitted a request to the SPPD for public data under the MGDPA. Ex. A. As shown herein, despite repeated attempts, the SPPD has not provided all of the data required to be disclosed pursuant to the MGDPA.

7. On June 25, 2018, the SPPD responded, stating, among other things, that not all requested data existed and compliance with the request would not be attempted until September 2018. The ACLU responded on July 3 explaining that the position taken by the SPPD was inappropriate under the MGDPA. Ex. B.

¹ See, e.g., ACLU-MN, *Picking Up the Pieces - Policing in America, A Minneapolis Case Study*, <https://www.aclu.org/issues/racial-justice/race-and-criminal-justice/picking-pieces?redirect=minneapolis>.

8. On July 24, 2018, the SPPD wrote a letter to the ACLU again denying multiple portions of the ACLU's request. Ex. C. This denial included a statement that the Department does not track investigative stops of citizens and that use of force reports are confidential and private. *Id.*

9. On September 6, 2018, the City Attorney's Office for the City of St. Paul wrote to the ACLU providing further denials and directing the ACLU to review individual "case-specific incident reports maintained in the department's records unit." Ex. D.

10. On September 13, 2018, the SPPD provided a limited subset of the requested data—blank copies of officer evaluation forms, a list of case and citation numbers (without any officer information), and a list of case numbers that indicated a person had been booked (without any officer information). As a later explanation for not providing any arrest data, on January 31, 2019, the SPPD stated that the list of case numbers indicating a person had been booked was the "best approximation the department currently has for whether there has been an arrest." Ex. H. These responses are insufficient under the MGDPA.

11. On November 1, 2018, the ACLU again wrote to the SPPD, through St. Paul Mayor Melvin Carter and Chief of Police Todd Axtell, in a further attempt to secure production of the public data under the MGDPA. Ex. E. On December 3, 2018, the SPPD wrote a letter back to the ACLU, again without providing the requested data. Ex. F.

12. On December 21, 2018, the ACLU wrote to the Department explaining that the SPPD's continuous delays and denials led the ACLU to conclude that its requests were denied. Ex. G.

13. On January 31, 2019, the SPPD wrote to the ACLU attempting to explain its failure to produce the requested data. This letter included legal arguments regarding the

classification of data under the MGDPA, which are addressed in Paragraphs 22–23 and 25–27.

Ex. H.

14. On February 15, 2019, the SPPD published a report online purportedly containing analysis of selective use of force data for 2016 through 2017. After publically releasing the report, the SPPD provided the ACLU with a copy of the report.

15. More than two months later, on April 18, 2019, the SPPD provided the ACLU with two spreadsheets “which fulfill the final pieces of this request,” according to the SPPD. The first spreadsheet purportedly contained some use of force data for only 2016 through 2017. The second spreadsheet purportedly contained only some of the requested citation data. Neither spreadsheet contain all of the requested public data. Even if these spreadsheets had been complete, there was additional requested public data that SPPD had still not provided.

16. In a good faith attempt to resolve this dispute without litigation, the ACLU again wrote to the SPPD on October 25, 2019 listing the data that had not been produced and explaining that the data is public under the MGDPA. Ex. I. In response, the SPPD did not provide any additional data or even a meaningful explanation of its continued withholding of public data. Ex. J. Instead, a single “dummy” use of force report was provided. *Id.*

17. As of the filing of this Complaint, the SPPD has refused to produce the following critical public data:²

- a. Data for each adult and juvenile arrest for all felonies, gross misdemeanors, misdemeanors, and petty misdemeanors between January 1, 2015 and the present.

² The SPPD has refused to produce other data which the ACLU reserves the right to pursue if such data is available. For instance, in the April 18, 2019 spreadsheet that purportedly contained citation data, race data was missing in 88% of the records and gender data was missing in 49% of the records. If this data is recorded and maintained by the SPPD, then it is public data that the SPPD is legally obligated to provide to the ACLU.

- b. The identity of police officers associated with citations, arrests, stops, or uses of force, between January 1, 2015 and the present.
- c. Any information related to investigative stops, *Terry* stops, stop and talk, and stop and frisk interactions between January 1, 2015 and the present, other than published traffic stop information.
- d. Any use of force reports documented by police officers from January 1, 2015 to the present.

Arrest Data

18. The SPPD's Department Manual requires that detailed arrest data be recorded by all arresting officers, and Subdivision 2 of Minn. Stat. § 13.82, titled "Arrest Data," classifies arrest data as public under the MGDPA.

19. Arresting officers are required to record arrest information on "an offense and/or arrest report" when booking an adult or processing a juvenile arrest. St. Paul Police Dep't Manual § 408.07. Furthermore, Department policy states that reporting is required for all "incidents involving arrests, citations, or summonses" and that such reports are entered into the Department's RMS computer system." St. Paul Police Dep't Manual § 416.00. Because the Department collects arrest data, arrest data is public under MGDPA, and because such records are stored electronically, the Department is obligated to provide the requested data in electronic form, subject to certain redactions of juvenile data. *See* Minn. Stat. §§ 13.03 Subd. 3(e), 13.82 Subd. 2.

20. In its most recent correspondence, the SPPD confirmed that officers electronically document arrests and citations in incident reports. However, the Department explained: "While this is an electronic storage system, it is antiquated and does not allow for saving an electronic

report, or even emailing a report. Each report would need to be printed and scanned as a PDF for it to be sent electronically.” Ex. J. With this statement, the SPPD concedes that it does not store arrest data in “such an arrangement and condition as to make them easily accessible for convenient use.” Minn. Stat. § 13.03 Subd. 1; *see also* Minn. Stat. § 13.82 Subd. 2. This is a violation of the MGDPA. Furthermore, the SPPD’s claim that its system is antiquated is belied by the fact that it has the technical capabilities to provide detailed data on arrests and apprehensions to the Bureau of Criminal Apprehension. The SPPD’s claim is also undercut by the fact that it has published some of the same data fields sought by the ACLU in its original request in datasets available for download on the City’s website and has provided spreadsheets to the ACLU containing similar datasets with respect to citation and use of force data.

Police Officer Identities

21. The MGDPA classifies the identity of a police officer conducting an arrest or involved in any incident in their official capacity as public data:

Subd. 2. Arrest data.—The following data created or collected by law enforcement agencies which document any actions taken by them to cite, arrest, incarcerate or otherwise substantially deprive an adult individual of liberty shall be public at all times in the originating agency: . . .

(f) the identities of the agencies, units within the agencies and individual persons taking the action; . . .

Subd. 6. Response or incident data.—The following data created or collected by law enforcement agencies which document the agency’s response to a request for service including, but not limited to, responses to traffic accidents, or which describe actions taken by the agency on its own initiative shall be public government data: . . .

(b) agencies, units of agencies and individual agency personnel participating in the action unless the identities of agency personnel qualify for protection under subdivision 17; . . .

Minn. Stat. § 13.82; *see also* Minn. Comm’r of Admin., Advisory Op. 17-002 (Apr. 18, 2017)

(listing the “identities of the individual officers who responded” to complaints as an example of public data). Because police officer identities are public data, the SPPD is obligated to produce

the requested police officer identities associated with specific incidents. Minn. Stat. § 13.03 Subd. 3(c).

22. Furthermore, none of the exceptions to the public classification of officer identities apply in this situation. For example, the ACLU is not requesting officer identities used “to obtain a management tool” or “to manage personnel and take personnel actions[,]” which are grounds for classifying officer identities as private data, and which was the case in *Star Tribune v. City of St. Paul*, 660 N.W.2d 821, 827 (Minn. Ct. App. 2003). The SPPD improperly relied on *Star Tribune* as justification for its refusal to produce any officer-identifying information. Ex. H.³ The ACLU’s request is limited to officer identities that have been recorded as part of the factual reporting of an arrest or other incident. This constitutes public data under Minn. Stat. § 13.82.

23. The SPPD previously provided electronic records of case, citation, and use of force data but did not include officer identities in any of the produced spreadsheets. The SPPD has also published traffic stop data online in a spreadsheet format. The SPPD has not provided any explanation for why case, citation, use of force, and traffic data can all be produced in a spreadsheet format, but arrest data and officer identities for the same cases and citations cannot. See ¶¶ 19–20, *supra*. Under the MGDPA, the Department is required to “keep records containing government data in such an arrangement and condition as to make them easily accessible for convenient use.” Minn. Stat. § 13.03 Subd. 1. If the information is stored on a computer, the Department is obligated to provide an electronic copy to the ACLU. *Id.* at Subd. 3(e).

³ The SPPD’s most recent letter instead states that the Department “simply do[es] not have the staff to dedicate in getting the [police officer identities] you request in the form you request it in.” Ex. J. This statement again concedes that the SPPD does not store its public data, which includes officer identities, in “such an arrangement and condition as to make them easily accessible for convenient use.” Minn. Stat. § 13.03 Subd. 1; *see also* Minn. Stat. § 13.82 Subd. 2.

Investigative Stops

24. The Department has claimed that it does not track investigative stops of citizens. However, it is the policy of the SPPD that all police officers with body worn cameras record “investigative stops of individuals,” “all frisks and searches,” and “suspect interviews in the field.” St. Paul Police Dep’t Manual § 442.18(10)(A). The SPPD also requires that all recorded content from body worn cameras be associated with a case number. St. Paul Police Dep’t Manual § 442.18(26)(A). As such, the requested information is collected by the Department. If public information is collected by the Department and properly requested, it must be produced under the MGDPA. *See* Minn. Stat. §§ 13.03, 13.82.

Use of Force Reports

25. It is public knowledge that the Department uses Use of Force Reports. *See* St. Paul Police Dep’t Manual § 246.03. Despite this, the Department has directed the ACLU to review, by hand, thousands of individual case reports to identify instances of officer uses of force. Ex. H. Use of force reports from Minnesota police departments have previously been held to be public data under Minn. Stat. § 13.82. *See, e.g., Communities United Against Police Brutality v. City of Brooklyn Park*, No. 27-CV-13-2755 (Minn. Dist. Ct. Sept. 17, 2014) (ordering that the Brooklyn Park Police Department produce the officer-reported portions of use of force reports because they constitute public data); *but see Morrison v. City of Minneapolis*, Civ. No. 16-2242 (PAM/SER), 2018 U.S. Dist. LEXIS 12689, at *12–14 (D. Minn. Jan. 26, 2018) (finding that use of force reports consisting entirely of analysis and supervisor review were private personnel data). Even if the use of force reports are used to evaluate officer conduct, that does not convert the reports to private data. Minn. Comm’r of Admin., Advisory Op. 12-010 (May 16, 2012) (holding that squad car videos were public data because the primary purpose of

the videos was to collect evidence and support writing reports even though the Minneapolis Police Department also used them for supervisor review and internal investigations).

26. “[P]ublic information does not become private information when placed in a report that the law enforcement agency deems as a whole to be private information.” *Communities United*, No. 27-CV-13-2755 at 9 (citing *Northwest Publ’ns Inc. v. City of Bloomington*, 499 N.W.2d 509 (Minn. Ct. App. 1993)). The only situation where a single document containing both public and non-public information can be entirely withheld is “when the public and nonpublic information are so inextricable intertwined that segregating the material could impose a significant financial burden and leave the remaining parts of the document with little informational value.” *Nw. Publ’ns*, 499 N.W.2d at 511.

27. After more than a year of correspondence, the SPPD provided a “dummy” use of force report on November 12, 2019. Ex. J. The form makes clear that the report is public data. At a minimum, the first two and a half pages of the report constitute a factual record of an officer’s use of force—not supervisory analysis, which constituted the entire form in *Morrison*. 2018 U.S. Dist. LEXIS 12689, at *14 (“The MPD’s reports, called ‘Supervisor Force Reviews,’ consist entirely of analysis and a supervisor’s review of the incident.”).

COUNT ONE: ACTION TO COMPEL COMPLIANCE WITH MGDPA

28. Paragraphs 1 through 27 are incorporated by reference as though fully stated herein.

29. The SPPD has failed to comply with its statutory obligations to produce the requested public data to ACLU in electronic format for no more than cost.

30. The SPPD has also violated the MGDPA by failing to keep its government data in “such an arrangement and condition as to make them easily accessible for convenient use.”

Minn. Stat. § 13.03 Subd. 1.

31. As a result of the SPPD’s violations of the MGDPA, ACLU is entitled to injunctive relief, including an order requiring that the requested public data be produced and enjoining the Department from charging more than the actual cost of producing the requested public data to ACLU in electronic format or an order compelling the SPPD to substantiate their fees.

32. As a result of the SPPD’s violations of the MGDPA, ACLU is also entitled to an award of damages in an amount to be established at trial, along with costs and reasonable attorneys’ fees.

COUNT TWO: DECLARATORY JUDGMENT

33. Paragraphs 1 through 32 are incorporated by reference as though fully stated herein.

34. Under Minn. Stat. § 555.01 et seq., there exists a ripe and justiciable controversy regarding the interpretation of the MGDPA and the parties’ respective rights and obligations thereunder.

35. ACLU is entitled to judgment declaring that the SPPD has an obligation under the MGDPA to provide the requested public data to ACLU in a suitable electronic medium for a fee no greater than the actual cost of providing the data.

36. ACLU is entitled to judgment declaring that the SPPD has an obligation under the MGDPA to change its data practices such that all data sought by ACLU must be kept and

maintained in an arrangement and condition as to make them easily accessible for convenient use and made public upon request.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays for judgment against the Defendant as follows:

- a. Requiring Defendant to comply with the Minnesota Government Data Practices Act, including providing to Plaintiff electronic copies of the data for no more than the actual cost associated with doing so; and to substantiate any such costs;
- b. Requiring Defendant to comply with the Minnesota Government Data Practices Act, including by modifying its data practices to ensure that public data is easily accessible for convenient use;
- c. Declaring the rights of Plaintiff and the obligations of the Defendant under the Minnesota Government Data Practices Act;
- d. Requiring Defendant to swear or affirm under the penalty of perjury to the Court that it has provided all of the requested public data to the ACLU immediately preceding the final resolution of this action;
- e. Awarding actual damages to the Plaintiff in an amount to be determined at trial;
- f. Awarding the costs and the expenses of this litigation to the Plaintiff;
- g. Awarding reasonable attorneys' fees and costs to the Plaintiff as provided by law;
- h. Granting all such other relief as the Court deems necessary, just, and proper.

DATED: December 4, 2019

By: /s/ Maximilian F. Hall

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