



September 28, 2015

Karen Haag
Director/City Clerk
City of Maplewood
1830 County Road B East
Maplewood, MN 55109-2702

Dear Ms. Haag:

On September 14, 2015, I received the City of Maplewood's application seeking temporary classification of certain body camera recording system data ("body cam data"). The City of Maplewood is joined in its application by eighteen other law enforcement agencies across the state, with the application supported by nine additional Minnesota communities.

As noted in the application, the Commissioner of Administration has only limited authority to issue a temporary classification of data. That authority applies when government data are not otherwise classified as either public or not public in state or federal law. The temporary classification authority does not allow for data to be reclassified, even when there are legitimate concerns regarding the appropriateness of an existing statutory classification.

Specifically, the application requests that I issue a temporary classification that body cam data which is not active or inactive criminal investigative data, unless data are about an incident involving the use of a dangerous weapon by a peace officer or use of physical force by a peace officer that causes bodily harm, as defined in Minnesota Statutes, section 609.02, is private data. There are no apparent examples of body cam data that is not active or inactive investigation data. As such, the effect of granting a temporary classification would be to reclassify data that is otherwise classified as public arrest data, response or incident data, or request for service data in Minn. Stat. 13.82, subd. 2, subd. 3, and subd. 6.

Given the limited temporary classification authority, I cannot accept and must reject the temporary classification request. That decision, however, is not a conclusion that the law adequately addresses the complex and sensitive data circumstances that arise with the use of body cameras.

The application raises many important issues regarding the best practices for balancing the expectation of data subjects that government maintain the privacy of their personal information, with the right of the public to know what government is doing. The application clearly demonstrates both the national and statewide significance of these issues, ones that can only be fully addressed through the legislative process.

Minnesota's data practices laws are designed to be neutral to technology. The reality is, however, that body cams have the potential to collect substantial amounts of video and audio in private and very

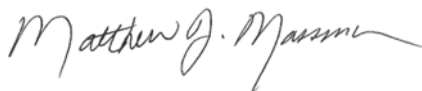
sensitive circumstances. Body cam data can include much greater detail than might be contained in a written law enforcement report, such as footage of a private home and personal belongings. Greater statutory clarity regarding how data practices laws should apply to such data would provide essential guidance for all interested stakeholders.

In sum, because the application did not clearly establish that “no statute currently exists which either allows or forbids classification as not public,” the application is not accepted and the request is rejected as provided for under Minnesota Statutes, section 13.06, subd. 3.

My office is available as a resource to local law enforcement, legislators, and other stakeholders to help understand and consider possible statutory changes.

Please contact Stacie Christensen at 651.201.2500 or stacie.christensen@state.mn.us with any questions about the temporary classification of data process.

Sincerely,



Matthew J. Massman
Commissioner

Cc: Chief Paul Schnell, City of Maplewood
Roger Knutson
City of Aikin (co-applicant)
City of Baxter (co-applicant)
City of Big Lake (co-applicant)
City of Brainerd (co-applicant)
City of Brooklyn Park (co-applicant)
City of Burnsville (co-applicant)
City of Cannon Falls (co-applicant)
City of Farmington (co-applicant)
City of Grand Rapids (co-applicant)
City of Jordan (co-applicant)
City of Madelia (co-applicant)
City of Montevideo (co-applicant)
City of Onamia (co-applicant)
City of Richfield (co-applicant)
City of Rochester (co-applicant)
City of St. Anthony (co-applicant)
City of Starbuck (co-applicant)
City of Stillwater (co-applicant)
City of Bloomington (supporting entity)
City of Duluth (supporting entity)
City of Eden Prairie (supporting entity)
City of Maple Grove (supporting entity)
City of Mounds View (supporting entity)
City of Oak Park Heights (supporting entity)
City of Plymouth (supporting entity)
City of Worthington (supporting entity)