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November 24, 2009

Shari Moore
City Clerk
310 City Hall
15 Kellogg Blvd., West
Saint Paul, MN 55102

RE: Data Practices Issues in Saint Paul Police Department

Dear Shari:

I am writing to you in your capacity as the Responsible Authority with regard to the manner in which the Police Department is responding to requests for data under the Minnesota Government Data Practices Act ("MGDPA").

First, many officers will, from time to time, request to review their personnel file or their disciplinary record (Internal Affairs card). Recently, the Department has begun to tell officers that they must make an advance request and schedule an appointment to review their personnel data. A copy of the directive from Commander Korus is enclosed.

As you know, the MGDPA requires a government entity to store data in a manner that makes it readily available and that it promptly responds to requests. The Internal Affairs records are readily available merely by pulling them from a file cabinet. There is no legitimate reason why office staff cannot do this whenever an officer stops in to request the record. There is no collating, searching or other preparation that is necessary to respond to these requests. The staff time involved is less than a minute to retrieve the file and then return it when the officer's review is complete.

Since there is no legitimate basis under the Act for the directive issued by Commander Korus, we believe his directive is merely an attempt to discourage or impede officers from exercising their right under the MGDPA to review their personnel data. Accordingly the directive constitutes a violation of the MGDPA and, we believe, an Unfair Labor Practice under PELRA.

Second, on numerous occasions, neither officers nor the Federation have been given access to Internal Affairs investigation files promptly upon the completion of the investigation. In many instances, this has caused officers to have to go into pre-determination hearings without having had the chance to review the charges or evidence against them and caused the Federation to

Shari Moore
November 24, 2009
Page 2

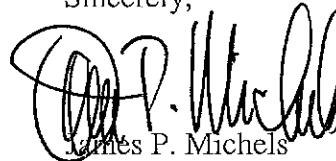
make decisions on grievances without sufficient knowledge of the facts of a case. Accused officers are clearly the subject of internal affairs investigation data and such data is clearly personnel data under Minn. Stat. §13.43. Moreover, the Federation has a right to the data under Minn. Stat. §13.43, subd. 6. The failure and refusal of the Police Department to provide access to the data or to specify a reason why it will not produce the data constitutes a violation of the MGDPA.

On behalf of the Federation, I am requesting that you, as the Responsible Authority for the City, please instruct the Police Department:

- to promptly provide access to Internal Affairs cards without requiring a prior written request and the scheduling of a meeting; and
- to make disciplinary investigation files available to the subject of the investigation and the Federation immediately upon the completion of the investigation.¹

If the Department will not voluntarily comply with its obligations under the MGDPA in the future, the Federation will have no alternative but to force compliance by commencing an action for enforcement of the MGDPA. As you know, such an action would allow for the Federation to recover its attorney fees in addition to injunctive relief and damages.

Sincerely,



James P. Michels

cc: John Choi
Chief John Harrington
Dave Titus

¹ Please note that, from time to time, the Department has made the ridiculous assertion that the investigation is not complete until *after* discipline is imposed. This means that the Department's practice is to impose discipline *before* it has completed an investigation. That is simply not believable.

James Michels

From: [REDACTED]
Sent: Friday, November 20, 2009 12:08 AM
To: Dave Titus
Subject: Fwd: Internal Affairs Cards/Information Review

Attachments: [REDACTED]



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

St. Paul Police Dept.
F.O.R.C.E Unit
722 Payne Ave
651-266-5712

>>> Dave Korus 11/19/2009 11:53 AM >>>

If you, as an employee would like to review your Internal Affairs Card or any other information recorded by the Internal Affairs Unit, you must give advanced notice.

Because of the significant increase in Data Practice requests to the Department from multiple sources and the limitation of staff to meet your request we are implementing the following:

Submit your request by either memo or email to the Commander of the Internal Affairs Unit. That request will be sent to the Administrative Assistant of Internal Affairs for access. The Administrative Assistant will contact you when the request is filled and then can schedule your review.

David Korus
Commander
Chief of Staff
Office of the Chief
St. Paul Police Department
651-266-5733

PLEASE BE ADVISED THAT ALL OR A PORTION OF THE INFORMATION CONTAINED IN THIS DOCUMENT MAY BE NON-PUBLIC AND/OR PRIVATE DATA PURSUANT TO SECTIONS 13.37, SUBD. 1(a) AND/OR 13.82, SUBD. 25 OF THE MINNESOTA GOVERNMENTAL DATA PRACTICES ACT