

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF ADMINISTRATION

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OAH Docket Number: 22-0305-40882

In the Matter of Owatonna East Side  
Corridor Residents c/o Matt Sennott  
& Melissa Zimmerman,

**STEELE COUNTY'S  
POST-HEARING BRIEF**

Complainants,

v.

Steele County,

Respondent.

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**INTRODUCTION**

Steele County (“County”) received eleven data requests and one preservation request under the Minnesota Government Data Practices Act (“MGDPA”) from Complainants Matt Sennott, Melissa Zimmerman, and the Owatonna East Side Corridor Residents (hereinafter, “Complainants”) from October 2024 through July 2025.

Complainants submitted a Data Practices Complaint (“Complaint”) under Minnesota Statutes, section 13.085 alleging MGDPA violations, and an evidentiary hearing was held on October 17, 2025 before Administrative Law Judge (“ALJ”) Christa Moseng. For the reasons set forth below, the County’s established procedures are consistent with the MGDPA to insure that all requests for government data are received

and complied with in an appropriate and prompt manner, and as such, the Complaint should be summarily dismissed.

### **ISSUE**

1. Are the County's established procedures consistent with the MGDPA to insure that all requests for government data are received and complied with in an appropriate and prompt manner?

### **PROCEDURAL POSTURE**

Complainants filed a Complaint alleging MGDPA violations by Steele County. Steele County received the Complaint and Supporting Evidence on July 18, 2025. The County filed its Response to the Complaint on August 15, 2025, moved to dismiss a large swath of the alleged violations for lack of jurisdiction, and, alternatively, moved for the filing of a more definite statement as it pertained to the violations alleged by the Complainants. ALJ Moseng issued a Notice of Probable Cause Determination and Order for a Prehearing Conference (hereinafter, "Notice and Order") on September 15, 2025. In issuing her Memorandum, ALJ Moseng "[b]roadly [] agree[d]" with Steele County regarding the dismissal of claims discussed in its filing.<sup>1</sup> ALJ Moseng denied the County's motion for a more definite statement, and found that probable cause exists to believe that the County committed the following MGDPA violations:

1. Charging a fee for inspection of public data, in violation of Minn. Stat. § 13.03, subd. 3, in response to an October 25, 2024 data request.

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<sup>1</sup> See Notice and Order, at 13-14. To the extent dismissed issues were raised again by Complainants at the October 17, 2025 hearing, the County preserves and reasserts previously raised and submitted arguments.

2. Failure to establish a procedure, consistent with the Act, to insure that all requests for government data are received and complied with in an appropriate and prompt manner, in violation of Minn. Stat. § 13.03, subd. 3.<sup>2</sup>

The Notice of Probable Cause Determination and Order further clarified these issues, stating that that the “Claims Proceeding to a Full Hearing,” related to (i) the charging of copies of inspected data; (ii) the “[i]nappropriate [r]esponses” to the Joint Transportation Committee Request, the April 2, 2025 Noise Studies Request, and the ESC Federal Funds Transfer Request; and (iii) the County’s ordering of its responses to data requests as it related to the April 9, 2025 ESC Federal Funds Transfer Request, May 6, 2025 Codes & Policies Request, and May 6, 2025 ESC Communications Request. *See* Notice and Order, at 18-21. The County conceded the first issue, and proposed to remedy this by reimbursing Complainants for the \$37.25 the Complainants paid for copies.<sup>3</sup>

The remaining issues proceeded to a hearing on October 17, 2025.<sup>4</sup>

### **STANDARD**

This matter was brought forth by Complainants under Minnesota Statutes, section 13.085. Following a hearing under this section, the judge must determine whether an MGDPA violation occurred, and:

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<sup>2</sup> Notice and Order, at 1-2.

<sup>3</sup> While Steele County has never actually charged Complainants a fee for the Complainants taking of pictures of responsive data produced for inspection, the County has conceded that it should not have told Complainants that it would do so.

<sup>4</sup> The County understands, per ALJ Moseng’s Notice and Order, that the issues proceeding to hearing were limited in the scope defined in Section IV(G) of the Order. The County will proceed to address these specific issues. To the extent additional issues beyond those identified in Section IV(G) of the Order were raised by Complainants during the October 17, 2025 hearing, the County understands that these issues fall outside the scope of the hearing, but will address these concerns broadly, and to the extent they were raised as they relate to the limited issues noted on pages 18 through 21 of the Notice and Order.

[M]ust make at least one of the following dispositions...:

- (1) dismiss the complaint;
- (2) find that an act or failure to act constituted a violation of this chapter;
- (3) impose a civil penalty against the respondent of up to \$300;
- (4) issue an order compelling the respondent to comply with the provision of law that has been violated, and may establish a deadline for the production of data, if necessary; and
- (5) refer the complaint to the appropriate prosecuting authority for consideration of criminal charges.

Minn. Stat. § 13.085, subd. 5(a).

The Complainant bears the burden of proof to establish by a preponderance of the evidence that the County violated the MGDPA.<sup>5</sup>

### **ANALYSIS**

#### **I. STEELE COUNTY’S ESTABLISHED PROCEDURE IS CONSISTENT WITH THE MGDPA, TO INSURE THAT ALL REQUESTS FOR GOVERNMENT DATA ARE RECEIVED AND COMPLIED WITH IN AN APPROPRIATE AND PROMPT MANNER.**

Under the MGDPA, an agency must respond to a request for access to public data in an appropriate and prompt manner and within a reasonable amount of time. Minn. Stat. § 13.03, subd. 2; Minn. R. 1205.0300, subp. 3. In that regard, section 13.03 of the MGDPA requires that governmental entities “establish procedures, consistent with [the MGDPA], to insure that requests for government data are received and complied with in an appropriate and prompt manner.” Minn. Stat. § 13.03, subd. 2(a). A government entity’s established procedures violate the MGPDA when following them causes a

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<sup>5</sup> *In the Matter of Coughlin v. City of Deerwood and Deerwood Police*, OAH 22-0305-39381, Findings of Fact, Conclusions of Law, and Order (Nov. 17, 2023), at 6 (citing Minn. R. 1400.7300, subp. 5 (2023)) (noting that while section 13.085 proceedings are not contested cases under Minnesota Statutes, chapter 14, Minn. R. 1400.7300, subp. 5 “articulates the correct burden of proof for a data practices case as no other standard is identified in section 13.085”).

response to be inappropriate or not prompt. *Webster v. Hennepin County*, 910 N.W.2d 420 at 431 (Minn. 2018).

Here, as established via evidence put forth at the October 17, 2025 hearing and laid out below, the County's procedures do not violate the MGDPA because the County followed its established data practice response procedures when responding to each of the Complainants' multiple data requests, and its responses to the data requests have been appropriate and prompt. As such, the County respectfully requests that the ALJ dismiss the Complaint under Minnesota Statutes, section 13.085, subdivision 5(a)(1).

**a. Steele County's established data practice procedures are clear, easily accessible to the public, and consistent with the MGDPA.**

The County has established procedures, consistent with the MGDPA, to insure that requests for government data are received and complied within an appropriate and prompt manner, and these procedures were followed. *Ex. 100B* (County's Guidelines and Procedures for Minnesota Government Data Practices Act, last revised August 2019, and in effect at the time the Complainants made their data requests from October 2024 through May 2025); *Ex. 100C* (current County's Guidelines and Procedures for Minnesota Government Data Practices Act, as updated in July 2025). These guidelines cover, among other items, the classification of government data, fees for government data, duties of the responsible authority, the rights of the data subject, how to request data from the County, the County's responsible authorities and designee, and the County's data request form. *Ex. 100B*; *Ex. 100C*. The guidelines are easily accessible on the Steele County website. *Test. of Fry*. Moreover, Steele County's website has a Data Practices

section that plainly informs the public where to submit their data requests, and provides Data Practice Request templates for public use. *Test. of Fry*.

Under the current guidelines, County Attorney Jarrett is the responsible authority for all County departments, except the Sheriff's Department. *Ex. 100A*, at Appendix B. The responsible authority may assign a designee in charge of individual files or systems containing government data. *Ex. 100A*, at Section V; *Ex. 100B*, at Section V. Moreover, all duties of the responsible authority may be delegated to the designee. *Ex. 100A*, at Section V; *Ex. 100B*, at Section V. These designees are listed in Appendix B of the Guidelines. *Ex. 100A*, at Appendix B.

As it relates to Complainants' data requests specifically, after continuous communication from Complainants about their data requests to the former County Engineer and Department Head, Paul Sponholz, and Administrative Assistant to the County Administrator, Rebecca Kubicek encumbered their abilities to do their respective jobs, County Attorney Jarrett requested that all data requests be sent to himself and County Administrator Fry to more effectively respond to the requests. *Ex. 100*, ¶ 10; *Test. of Fry*.<sup>6</sup> As evidenced by testimony and the Complaint, Complainants submitted numerous requests using the County's Public Data Request Form both before and after County Attorney Jarrett's request.<sup>7</sup>

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<sup>6</sup> As noted previously, this type of designation is in compliance with the MGDPA. *See* Notice and Order, at 14.

<sup>7</sup> During the hearing, Complainants raised the concern that Steele County's Data Practice Guidelines were not updated until August 2025, and the Responsibility Authority had listed the previous Steele County Attorney, until this update. There is no evidence that this hindered the Complainants' ability make data requests. Rather, the evidence supports the opposite. As noted throughout the hearing, Complainants made eleven data requests. *See, e.g., Test. of Fry; Test. of Sennott.*

Beyond adopting data practice procedures, the County utilizes and follows these procedures when responding to data requests by, among other items, receiving and acknowledging receipt of a data request, and disseminating the request to the relevant County Department heads to retrieve the requested responsive information. *Test. of Fry.* The County’s Information Technology (“IT”) Department assists in responding to the data requests using, among other things, Microsoft One-Drive—essentially a “massive database” of anything created or generated electronically in Steele County—and keyword searches. *Id.* The gathered documents are reviewed by the County for responsiveness, as well as for private, non-public, and privileged information. *Id.* County Administrator Fry processes most routine data requests, and follows the County Guidelines and Procedures when processing requests. *Id.* Requests that involve repeat subject matter, however, such as requests regarding the East Side Corridor, are forwarded to County Attorney Jarrett for a coordinated response. *Id.*

**b. Steele County was appropriate in its response as it related to the Complainants’ data requests pertaining to (1) the Joint Transportation Committee, (2) Noise Studies, and (3) Fund Transfers.**

As noted above, the parties proceeded to a hearing regarding whether the County’s response to the Complainant’s data requests regarding the Joint Transportation Committee, Noise Studies, and Fund Transfers was appropriate. As addressed in turn, beyond establishing MGDPA-compliant procedures, the County’s response pertaining to these three data requests was appropriate and compliant with the MGDPA.

i. Joint Transportation Committee Request

First, as it relates to the Complainants' questions about the Joint Transportation Committee, the County responded multiple times, and in a prompt and appropriate manner.

On January 31, 2025, Complainant Zimmerman asked the County for meeting minutes pertaining to the Joint Transportation Committee. *Ex. 100C*. The County Attorney responded on February 4, 2025 informing Complainant Zimmerman that the County does not maintain those minutes, and as such, had no minutes to provide. *Id.* On March 31, 2025, Complainant Zimmerman submitted a data request regarding the Joint Transportation Committee, this time in the form of questions. *Ex. 3* at ESC 10-11, 21. The County Attorney responded on April 1, 2025 that Chapter 13 does not require government entities to answer specific questions or data, that the questions submitted by Complainant Zimmerman did not constitute a data request under the MGDPA, and that the request would be closed.<sup>8</sup> *Id.* at ESC 20-12. On April 2, 2025, Complainant Zimmerman responded, resubmitting the same data request with question marks removed. *Id.* at ESC 17-18.

On or around April 8, 2025, County Administrator Fry witnessed County Commissioner Krueger explain to Complainant Zimmerman that the Joint Transportation Committee is not a body of Steele County and that it is an ad hoc meeting that does not include a quorum of County Board members or Owatonna City Council Members. *Test.*

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<sup>8</sup> Of note, it has already been established that requests in the form of questions does not constitute a data request under the MDPA. *See* Notice and Order, at 14.



of Fry, at 35:00-35:30. County Attorney Jarrett likewise affirmed that he informed Complainant Zimmerman that the County did not maintain data on the Joint Transportation Committee. *Test. of Fry; Exhibit 100*, ¶ 19. Complainant Sennott affirmed that he was aware the Joint Transportation Committee was a City committee, and not a County committee. *Test. of Sennott*, 3:50:48-3:51:07. Indeed, it is apparent by a re-submitted data request submitted on April 18, 2025 by Complainant Zimmerman for the same Joint Transportation Committee information she previously requested, that Complainant Zimmerman understood that the Joint Transportation Committee was run by the City of Owatonna, and that the County did not have data related to the group. *Ex. 100D*, at E-207-11 (noting that this request was submitted “Via email: Kris.busse@owatonna.gov... TO: The City of Owatonna); *id.* (addressing “the City of Owatonna Personnel”); *see also, e.g., Test. of Fry*, at 38:15; Notice and Order, at 16 (citing Amended Supporting Documentation, at 58-65) (“In a similar vein, Complainants allege multiple statutory violations based on a data request made to the County for data regarding a Joint Transportation Committee—despite their own notes stating that this committee is run by the City of Owatonna. Nothing in the record indicates this would be data held by, or connected to, the County.”). As the County does not maintain responsive data on the Joint Transportation Committee, and promptly informed Complainants of this, the County’s response has been appropriate, and the request is closed.

ii. Noise Studies Data Request

Second, as it relates to Complainants’ data request regarding noise studies for the East Side Corridor Project, the County Attorney’s response was similarly appropriate and

prompt. The record here is undisputed. The Complainants submitted their data request on April 2, 2025. To determine whether the County possessed any responsive data to this request, Paul Sponholz, the former County Engineer and County staff member involved in the East Side Corridor, reviewed his emails, files, and records. *Test. of Fry.*, 39:30-40:30. Mr. Sponholz indicated that the County did not possess any data responsive to the request. *Id.* Following Mr. Sponholz's review, County Attorney Jarrett responded on April 18, 2025, informing the Complainants that no such data existed, and as such, closed the request. *Ex. 100F; Ex. 100G.*

iii. ESC Federal Funds Transfer Data Request

Third, as it relates to Complainants' April 9, 2025 ESC Federal Funds Transfer Request, County Attorney Jarrett responded the following day informing Complainant Zimmerman that the request was received and would likely be responded to in fall 2025. *Ex. 100J.* County Attorney Jarret's subsequent response indicating that the request was "vague and ambiguous" was inadvertent and accidental on the part of the County Attorney given the number of requests received by Complainant Zimmerman during that particular period of time. *Ex. 100, ¶ 41; Test. of Fry.* It was not until the County began preparing for this hearing that the County Attorney discovered this inadvertent action. *Ex. 100, ¶ 41; Test. of Fry.* The data request has always remained open, and the County has continued to process it. *Ex. 100, ¶ 41; Test. of Fry.*

To the extent the County Attorney's inadvertent response is deemed inappropriate, it should, likewise, not constitute a violation under the MGDPA, because Steele County's established procedures did not cause this inadvertent response. *See Webster v. Hennepin*

*County*, 910 N.W.2d 420 at 431 (Minn. 2018) (noting that not every untimely response supports a finding that a government entity’s “established procedures” do not comply with the MGDPA, but rather, a violation of the MGDPA occurs when the County’s established procedures were the *cause* of the untimely response”). As such, the County, likewise, respectfully requests that the MGDPA Complaint be dismissed. *See, e.g., Yesley v. City of Shorewood*, OAH 5-0305-38230 (Oct. 17, 2022), Findings of Fact, Conclusions of Law, and Order (finding that, despite an overlooked, unfulfilled data request, complainant did not demonstrate an MGDPA violation when the entities procedures did not cause the unfulfilled data request); *id.* (“This failure was not, however a violation of the MGDPA, because the record demonstrates required policies and procedures for appropriate and prompt compliance with data requests are in place.”).

**c. Steele County’s response to the April 9, 2025 data request, and the two May 6, 2025 data requests, and its process of responding to data requests in the order in which it was received was appropriate, reasonable and consistent with the MGDPA.**

Beyond concerns regarding the County’s response to the data requests noted above, the Notice of Probable Cause Determination indicated that there was probable cause to believe a MGDPA violation existed as it related to the County’s response to the April 9, 2025 data request, and the two May 6, 2025 data requests. Specifically, in responding to each of these requests, the County Attorney indicated that the requests would likely not be filled until fall or winter, and that the County would respond to the data request in the order it was received. *Ex. 100J*; *Ex. 11*, at ESC-55; *Ex. 12*, at ESC-63. Here, the County’s response and provided timeline were appropriate relative to the size

and staffing limitations of Steele County, as well as the specifics of the volume of the data requested.

In contrast to Complainants' assertions, OAH has recognized that the staffing resources and size of a governmental entity may impact the entity's ability to respond to a data request. For example, OAH judges have noted that Minnesota Statutes, section 13.03, subdivision 2 "does not expressly or impliedly include a requirement to procure additional staffing resources to respond to a request more quickly than the entity's existing staffing allows." *In the Matter of Coughlin v. City of Deerwood and Deerwood Police*, Findings of Fact, Conclusions of Law, and Order, OAH 22-0305-39381 (Nov. 17, 2023); *see also id.* ("The Act does not require a city the size of Deerwood to employ staff dedicated solely to responding to requests for government data or to add to its labor force.").

Here, the size and resources of the County is comparable to that of *Coughlin*. Steele County, a County with only approximately 200 employees, has dramatically less resources than other governmental entities to review and respond to data requests. *Test. of Fry; Ex. 100*, ¶ 24. Additionally, during the time these data requests were being made, the County Attorney's department, the County Administrator's unit, and the County Engineer's unit all weathered vacancies and limited resources which impacted the County's ability to quickly respond to Complainants' data requests.<sup>9</sup> The Chief Deputy County Attorney position was vacant until June 2025. *Id.* ¶ 26. The County Attorney's

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<sup>9</sup> The County Engineering Department is particularly relevant to Complainants' data requests as the Department is typically the "keeper of th[ose] documents." *Test. of Fry*.

Office had additional attorney vacancies from October to December 2024 and April to July 2025. *Id.* ¶ 28; *Test. of Fry*. Moreover, County Engineer Sponholz, who had assisted in responding to the data requests left in June 2025 and was never replaced. *Id.* ¶ 27; *Test. of Fry*. Rather, a new Public Works Director position was created and not filled until August 2025. *Id.*; *Test. of Fry*. Further, Fry testified to additional vacancies that impacted her office. *Test. of Fry*. These vacancies only exacerbated the already limited capacity of the County and the County Attorney’s Office. *See, e.g., Ex. 100*, ¶¶ 24, 25 (County Attorney Jarrett describing schedule and noting that he co-chaired a second-degree murder case with the Attorney General’s Office which required extensive trial preparations in April).

Beyond these limitations, the County consistently communicated these resource challenges and staffing constraints with the Complainants, as well as their impact on the County’s timeline for producing responsive data. *See, e.g., Ex. 100*, ¶ 24; *Complaint*, at 6 (email from Fry to Sennott) (Nov. 13, 2025); *Complaint*, at 31 (email correspondence from Jarrett to Zimmerman) (Mar. 11, 2025) (noting items will be ready to review first week of April) (“For context I have a very full calendar the next two weeks which includes a 3-day termination of parental rights trial, a contested omnibus hearing on a homicide case, a full day contested civil commitment of a sexually dangerous person training for law enforcement, as well as regular meeting and urgent issues that come up.”); *see also Test. of Fry*.

Further, OAH judges have found, and the Commissioner of the Department of Administration has issued, several advisory opinions stating that a prompt and reasonable

response is relative to the specifics of the data requested. *See In the Matter of Coughlin v. City of Deerwood and Deerwood Police*, Findings of Fact, Conclusions of Law, and Order, OAH 22-0305-39381 (Nov. 17, 2023) (“In light of the City’s size, *the volume of the data requested*, and the need for a reasonable time to separate public and not public data, Complainant has not met his burden to show that the City’s procedures or a process deficiency caused the City’s responses to his requests to be unreasonably slow.”) (emphasis added); Depart. Admin. Adv. Ops. 04-027 (Apr. 28, 2004) (City of Minneapolis); 13-003 (Jan. 23, 2013) (City of Minneapolis) (holding that the Commissioner could not determine whether a governmental entity responded properly but noting that a City acted in good faith and was in “near-constant communication” with a requester who filed sixteen data requests); 18-010 (July 30, 2018) (Duluth Public Schools); 19-010 (June 18, 2019) (Minn. Dept. Health). Indeed, the Commissioner has previously opined that the University of Minnesota responded appropriately to a data requester, even though the University had not provided any data to the requester after a period of five months. Depart. Admin. Adv. Ops. 14-003 (Apr. 23, 2014) (University of Minnesota); *see also id.* (“Based on the complexity of the request and the fact that the University has been in continual communication with [the requester], it is the Commissioner’s opinion that the University has acted appropriately in responding to [the requester’s] request. It seems reasonable that the request might warrant the time that has elapsed, especially in the context of [the requester’s] various other requests.”); *see also* 95-006 (Feb. 2, 1995) (City of Bloomington) (acknowledging that “it is not always possible or even desirable” to maintain data that makes it easy to separate public and non-

public data, and that “at times” this separation “will require time and effort,” and that “government entities may need a reasonable amount of time to separate public from not public data.”).<sup>10</sup>

As it relates to the three data requests specified here (the April 9, 2025 data request, and the two May 6, 2025 data requests), each of these data requests followed several other requests submitted by Complainants, including the substantial and voluminous ESC data request submitted in October 2024 that the County was still processing. *Compare Ex. 100J, Ex. 11, at ESC-55, and Ex. 12, at ESC-63 with Ex. 1, at ESC-1-2; Test. of Fry.*

Of additional note, when dealing with a situation where a few individuals are making multiple data requests over a several month period, the County has adopted a practice of responding to each request in the order it was received. *Ex. 100, ¶ 37.* The County adopted this process to ensure the integrity and proper completion of each request. *Test. of Fry.* Moreover, because most of the requests required IT assistance in locating responsive documents, this process was necessary to provide IT with clear and effective direction. *Test. of Fry.* Responding to each request in the order it was received is consistent with the MGDPA, and has, in fact, been touted as a “useful” method in responding to multiple data requests. *See* Depart. Admin. Adv. Ops. 06-029 (Oct. 19, 2006) (Hennepin County Attorney’s Office) (noting that, in instances where governmental entities are handling situations when a single party makes multiple data

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<sup>10</sup> Opinions of the commissioner are not binding on government entities but must be given deference by a tribunal in a proceeding involving data. Minn. Stat. § 13.072, subd. 2.

requests over a several month period of time, “it may be useful for entities to include general standards for handling situations,” which can include “choos[ing] to respond to each request in the order it was received”). The County adopted this method when working with the Complainants, given the vast amount of data requested, and number of requests submitted within a short period.

In light of the County’s size, the volume of the data requested, the need for a reasonable time to separate public and private data, and the County’s practice of ordering its requests, the estimation provided by the County to the Complainants at the time of their April 9, 2025 request and May 6, 2025 ESC Federal Funds Transfer request was reasonable and appropriate. The County is currently working to fulfill these requests, and data will be provided, as soon as reasonably allowed.

Moreover, as it relates to the May 6, 2025 request for County policies – the County provided these policies to the requesters as of September 30, 2025. *Ex. 100K; Ex. 100*, ¶ 42. Despite the County’s practice of responding to data requests in the order it was received when responding to multiple data requests by a single entity, the County recognizes the need for a more individualized approach to data requests. So, for example, in the future, if portions of data requests can be responded to immediately, the County will process that portion of the request first, as the County has done with the request for county policies. *See 100*, ¶ 37; *Test. of Fry*.



**d. Steele County's response to Complainants' data requests, as a whole, has been reasonable, appropriate, prompt, and in compliance with the MGDPA. Moreover, the County has acted, and continues to act, in good faith in response to the requests submitted by Complainants.**

To the extent additional issues were raised by Complainants outside the limited scope articulated by the Notice of Probable Cause Determination, the County has been diligent in responding to these requests, and repeated follow-up by the Complainants since Complainants first submitted these requests.

As it relates to the Complainants' data requests as a whole, the County has worked diligently and in good faith to respond to the request relative to the staffing constraints of the County, and the volume of the requests.

As noted above, when determining whether a response is reasonable and prompt, OAH judges consider the staffing limitations of the responding government entity and complexity of the requests. *See* Section I.c.

As fully laid out previously, the County has had additional staffing constraints throughout this past year. *Id.* These staffing restraints, as well as technological challenges that briefly caused data to be inaccessible, were consistently communicated with Complainants. *See, e.g.,* Complaint, at 6 (email from Fry to Sennott) (Nov. 13, 2024); *Ex. 26* (email correspondence from Jarrett to Sennott and Zimmerman) (Jan. 13-14, 2024); *Test. of Fry*.<sup>11</sup>

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<sup>11</sup> Oddly, Complainants continue to accuse the County of withholding data from Complainant Zimmerman on January 14, 2025 when the technological issue was resolved and the data provided on the following day. *See Ex. 26*, at ESC-154 (email correspondence from County Attorney Jarrett informing Complainants that the issue has been resolved on January 14, 2025 at 5:20pm). Complainant Zimmerman also showed up and recorded county staff knowing there was a technological issue preventing the production of documents. Technological difficulties—promptly communicated with requesters and resolved quickly—does not constitute an MGDPA violation.

Moreover, Complainants' data requests have been extensive. The requests have required the County to compile data from at least six different County departments and review thousands of pages of documents for private, confidential, and privileged information. *Ex. 100*, ¶ 11; *Test. of Fry*. Complainants' October 2024 Data Request is particularly substantial. *Ex. 1*, at ESC-1-2. It took the County's IT Department almost five weeks to retrieve its keyword search results based on Complainants' initial request. *Test. of Fry*.

Despite the size of the requests, the County has acted diligently and in good faith to provide responsive data. Given the vast extent and nature of the data requests, the County worked to prioritize Complainants' requests and provided the data to Complainants on a "rolling" basis.<sup>12</sup> *Ex. 100*, ¶¶ 14, 15; *Test. of Fry*; *Test. of Sennott*. The County employed their IT Department to conduct keyword searches, and to locate and compile responsive data. *Test. of Fry*. Former County Engineer Sponholz reviewed paper files to ensure responsive paper documents were scanned and saved electronically prior to his departure. *Test. of Fry*. Further, the County has made it a practice to reach out to County Department heads for any additional paper files related to the East Side Corridor not already stored in Microsoft One-Drive. *Test. of Fry*.

The County engaged six employees to review documents responsive to the requests for private, confidential and privileged information. *Ex. 100*, ¶ 13. Regarding the October 2024 data request alone, County employees have spent over approximately 300

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<sup>12</sup> This "rolling" basis strategy is considered "effective" by the Commissioner of Department of Administration when "dealing with a large amount of data. Depart. Admin. Adv. Ops. 18-010 (July 30, 2018) (Duluth Public Schools).

hours, including working over 100 hours over the 2024 holiday break, in order to provide documents responsive to Complainants' request. *Ex. 100*, ¶ 13; *Test. of Fry*. As of the date of the October 17, 2024 hearing, the County provided Complainants with three batches of data, which contained more than 8 gigabytes of data, and more than 3,500 "items" of responsive data. *Ex. 100*, ¶¶ 30, 31; *Test. of Fry*.<sup>13</sup> As of the hearing, Complainants had not spent any significant time reviewing the County's third produced batch provided to Complainants in June 2025. *Ex. 100*, ¶ 31; *Test of Sennott*.

Beyond the extensive time already devoted by the County to responding to Complainants' data requests, the County has continued to take steps to insure that all government data are received and complied with in an appropriate and prompt manner.

The County recently updated its data policy, provided online data practices training modules, and implemented a Microsoft SharePoint site to more effectively track and monitor requests and responses. *Id.* ¶¶ 4, 34-35; *Test. of Fry*. Moreover, since receiving these requests, the County implemented Microsoft Purview, a software that allows its IT department to search all emails, calendars, and one-drive documents via keyword searches, de-duplicate the results, and redact within the program to allow for a more useful and user-friendly response. *Ex. 100*, ¶ 33; *Test. of Fry*. Following a request by Complainants for the data to be provided in a more organized manner, the County changed its organization to provide data in a PST format.<sup>14</sup> *Test. of Fry*; *Test. of Sennott*.

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<sup>13</sup> Each "item" constitutes the family of related documents, such as email chains and attachments, so each item could range from one page to hundreds of pages. *Id.* ¶ 30.

<sup>14</sup> Of note, the MGDPA does not require that government entities to organize data in a specific manner. *See* Notice and Order, at 14. The County did so anyway.

Moreover, the County has obtained a laptop to be exclusively used for individuals inspecting documents responsive to data requests. The County Attorney has further sought approval from the County Board to hire an additional County Attorney with .25 of their time focused solely on responding to MGDPA requests. *Ex. 100* ¶ 36; *Test. of Fry*.

Steele County has tried, and continues to do its best, given the scope of requests and the staffing constraints of small county government. As of the submission of this Post-Hearing brief, eight of the eleven data requests have either been closed because no responsive data exists, or have been responded to, with the provision of all responsive documents.<sup>15</sup>

While Complainants attempt to depict the County as unresponsive and purposeful in delays in responding to their data requests, the evidence shows the opposite. The County, despite all of its limitations, and in the face of an unprecedented number of voluminous data requests worked diligently and in good faith to respond to the requests submitted. It has established well-defined procedures, thoroughly trained its staff, and committed substantial time and resources toward complying with the MGDPA. The County's actions were reasonable, appropriate, and made in earnest and good-faith effort to meet both the spirit and letter of the MGDPA.

### **CONCLUSION**

Based on the foregoing arguments, the County respectfully requests that the ALJ dismiss the complaint in its entirety.

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<sup>15</sup> As testified by County Administrator Fry, data responding to the traffic impact study and safety plan requests were retrieved and ready for review of private or privileged information at the time of hearing, and have subsequently been provided.

Respectfully submitted,

**RATWIK, ROSZAK & MALONEY, P.A.**

Dated: November 7, 2025

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