



DEPARTMENT OF  
ADMINISTRATION

Law Enforcement Data Workshop

December 2023  
Morning

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### WebEx Walkthrough

- Mute/Unmute
- Cameras
- Chat, Participant, and Polling panels
- Breakout sessions

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### Introductions

Please introduce yourself:

- Your name
- Your entity
- Your role in data practices
- Any burning questions you would like to discuss today



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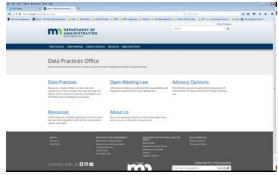
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## Who we are and what we do

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### Data Practices Office

- Informal advice/technical assistance
- Commissioner of Administration advisory opinions
- Website and informational materials: <https://mn.gov/admin/data-practices/>
- Listserv and newsletters
- Legislative assistance
- Training



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## Agenda

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Time	Activity
8:30	Welcome and Introductions
8:45	Law Enforcement Data Overview
10:00	Break
10:15	Protected Identities & Morning Scenarios
11:15	Law enforcement video discussion
Noon	Lunch (on your own)
1:00	Law enforcement video scenarios
1:30	Miscellaneous provisions
2:30	Break
2:45	Afternoon law enforcement data scenarios
3:15	Final debrief, general Q&A, evaluations
3:30	End of day

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## Today's Objectives

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- Identify LE data provisions & requirements in the Minnesota Government Data Practices Act and other applicable statutes
  - Investigative data
  - Law enforcement videos
  - Miscellaneous provisions that apply to law enforcement work
- Apply Data Practices Act requirements in different situations

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## Data practices laws

- **MN Government Data Practices Act, Ch. 13**
  - Presumes government data are public
  - Classifies data that are not public
  - Access rights for the public and data subjects
  - Data on individuals are accurate, complete, current, and secure
- **Official Records Act** requires preservation of all records necessary to a full and accurate knowledge of official activities
- **Records Management Statute** requires records retention schedules approved by records disposition panel
  - MN State Archives: [www.mnhs.org/preserve/records/gov\\_services.htm](http://www.mnhs.org/preserve/records/gov_services.htm)

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## Government Data Defined

“All data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use.”

(Minn. Stat. § 13.02, subd. 7)



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## Classification of Government Data

Classification	Meaning of Classification	Examples
Public	Available to anyone for any reason	Adult arrest information
Private/ Nonpublic	Available to: <ul style="list-style-type: none"> <li>• Data subject</li> <li>• Those in entity whose work requires access</li> <li>• Entities authorized by law</li> <li>• Those authorized by data subject</li> </ul>	Inactive body camera footage, 911 audio
Confidential/ Protected Nonpublic	Available to: <ul style="list-style-type: none"> <li>• Those in entity whose work requires access</li> <li>• Entities authorized by law</li> </ul> <b>Not available to data subject</b>	Active criminal investigative data

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## Redaction Exercise

Handout 102

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### Adult Law Enforcement Data Minn. Stat. §13.82 (103)

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## Application

- Applies to agencies which carry on a law enforcement function
- Includes:
  - Municipal police and county sheriff departments
  - Fire departments
  - BCA, state patrol, POST
- Does not include prosecuting attorneys
  - Informal AG opinion disagrees with advisory opinion 01-079
    - Public prosecutors in original provision; removed in 1981 amendment
    - Section 13.393 applies to data held by government attorneys
    - Local prosecution authorities are criminal justice agencies

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**What's public?**

Is there an active investigation?

- Yes:
  - The following data are public, subject to protection of certain identities:
    - Arrest data (subd. 2)
    - Request for service data (subd. 3)
    - Response or incident data (subd. 6)
    - Criminal investigative data presented in court (subd. 7)
- No:
  - All inactive investigation data are public (subject to several exceptions)

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**Arrest data**  
Section 13.82, subd. 2

Actions taken to cite, arrest, incarcerate or otherwise substantially deprive an adult individual of liberty shall be public **at all times** in the originating agency:

- If adult:
  - Name, age, sex, and last known address of adults
  - Time, date, and place of action
  - Resistance, pursuit, weapons
  - Legal basis for action (charge, arrest or search warrant)
  - Agency, units and individuals taking action
  - Custody info (whether and where)
  - Use of ALPR, body cam, wiretapping (unless jeopardize investigation)
  - Manner received info leading to arrest and names of informants (unless protected identities)
- If juvenile (hearing not public): age and sex only

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**Request for service data**  
Section 13.82, subd. 3

Requests by the public for law enforcement services **shall be public**:

- Nature of the request or the activity
- Name and address of the individual making the request (unless protected identity)
- Time and date of the request or complaint
- Response initiated and the response or incident report number

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### Response or incident data

Section 13.82, subd. 6

Data describing the agency’s response to a request for service, or actions taken by the agency on its own initiative **shall be public:**

- Date, time and place of the action
- Agencies, etc. participating in the action (unless protected identities)
- Any resistance encountered, pursuit engaged in, or weapons used
- Brief factual reconstruction of events associated with the action
- Names and addresses of witnesses to agency action or incident (unless protected identities)

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### Response or incident data, cont.

- Names and addresses of any victims (unless protected identities)
- Name and location of the health care facility to which victims were taken
- Response or incident report number
- Use of body camera to document the agency’s response
- Specific to **traffic accidents:**
  - Dates of birth of the parties involved
  - Whether the parties involved were wearing seat belts
  - Alcohol concentration of each driver

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### Criminal investigations

Section 13.82, subd. 7

**Active investigative data** - data collected or created by law enforcement to prepare a case against a person are **confidential/protected nonpublic**

- Except:
  - Arrest, request for service, response or incident data (public)
  - Protected identities (private)
  - Public benefit data (discretion to release)
  - Exchange of information by law enforcement agencies – “pertinent and necessary” to an investigation
  - Prosecutor shall release to victim upon written request
  - Data presented as evidence in court

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**Inactive investigative data**

Inactive investigative data are **public**, except:

- Jeopardize ongoing investigation (confidential/protected nonpublic)
- Reveal protected identities (private)
- Images and recordings (photographs, video, audio records) offensive to common sensibilities (private)
- Certain child or vulnerable adult abuse data (private)
- Certain body camera data (private)

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**When are investigations inactive?**

- Decision not to further pursue or prosecute the case
- Time to charge expires
- All rights to appeal exhausted or expired
- Not guilty/exonerated\*



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**Public benefit data**  
§ 13.82, subd. 15

- Applies to all confidential/protected nonpublic active investigative data (not protected IDs) AND any not public body camera or drone video data
- Public benefit data *may* be shared to
  - Aid in the law enforcement process,
  - Promote public safety, or
  - Dispel widespread rumor or unrest.

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**What do you think?**

A member of the press requests a copy of a photo of Jeter, the famously ugly dog, from your agency. The photo is related to a case that was never investigated.



- Can the reporter have it?
- What if the photo is part of an active investigation?
- What about when the case becomes inactive?



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What questions do you have for us so far?



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**Morning Break!**

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### Protecting identities

Section 13.82, subdivision 17 (105)

- Must have procedures to acquire and protect certain identities
- Protected identities are private
- “Identity” is more than a name

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### Identities you *must* protect

- Undercover law enforcement officer
- Victim or alleged victim of criminal sexual conduct or sex trafficking
- Deceased person unlawfully removed from a cemetery
- Mandated reporter
- Person making a 911 call or name and phone number of service subscriber if either:
  - Reason is for help in a mental health emergency; or
  - Determine revealing identity would threaten safety of person or property

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### Identities you *may* protect

Document determinations to protect:

- Paid or unpaid informant
- Victim or adult witness to a crime
- Juvenile witness

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**What do you think?**

Following a burglary of a local business, a member of the press requests the names for all witnesses and victims, who are as follows:

- 1)An undercover officer witness;
- 2)An adult cashier witness;
- 3)An adult cashier victim (who has no recollection of the incident)

**Can the following identities be disclosed?**

- Undercover Officer?
- Cashier Witness?
- Cashier Victim?



28

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**911 Calls**  
Section 13.82, subd. 4

- Recording of 911 call
  - Private data on the caller
- Transcript of 911 call
  - Public
    - Unless it reveals a protected ID under subd. 17
  - Person requesting transcript shall pay actual cost of transcription



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**What do you think?**

What is the classification of a recording of a call made to a police department non-emergency line (i.e., not 911)?



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**What do you think?**

A 13-year-old called 911 for assistance in a medical emergency. Her 9-year-old brother was having an allergic reaction.

What can be released to a media requester?



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**Other not public law enforcement data**  
Section 13.82

- Child abuse data (private) – subds. 8 and 9
- Vulnerable adult data (private) – subds. 10 and 11
- Certain property data (private/nonpublic) – subd. 20
- Certain pawnshop data (private) – subd. 27
- Financial account or transaction numbers (private/nonpublic) – subd. 30

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**DEPARTMENT OF ADMINISTRATION**

Morning Law Enforcement Scenarios

Handout 106  
Breakout Session Discussion

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Law Enforcement Videos and Other Recordings

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**What type of video is it?**

- Body camera video – § 13.825
- Drone data/video – § 626.19
- Other video: Squad video, taser camera, gun camera, cellphone video, etc. – § 13.82 or presumptively public

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**Police body-worn camera (BWC) video data**  
Minn. Stat. § 13.825 (108)

- Most inactive BWC video data = private/nonpublic
- Active investigative data are confidential/protected nonpublic
- BWC data are public if there is:
  - Discharge of firearm in the course of duty
  - Incident results in substantial bodily harm
  - Data subject makes data public, with applicable redactions
  - Public employee disciplinary data
  - Individual dies as a result of officer’s use of force; public within 14 days after incident\*

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**Body cam data access**

- Data subjects include:
  - Anyone who can be seen or heard
  - Peace officer who collects the data
  - Peace officers who can be seen or heard
- Access by data subjects:
  - Data subject can access (inspect) unredacted video
  - Copies must be redacted, unless consent from other data subjects
  - On duty officers who are not undercover may not be redacted
- Access to data with no identifiable individuals:
  - Nonpublic data – need to determine subject of data, if any

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**Body cam data access – deadly use of force**

For body camera data that document a deadly use-of-force incident, a law enforcement agency must:

- Allow next of kin, their lawyer, and child’s other parent of deceased individual to inspect data within five days of request
  - Agency may deny access if there is a compelling reason why inspection would interfere with active investigation
  - Must provide prompt, written denial as well as inform family that relief may be sought from district court per section 13.82, subd. 7
- Must disclose data (with applicable redactions) to the public within 14 days after incident
  - Agency may withhold access if it asserts disclosure would interfere with active investigation

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**Body cam data requirements**

- Retention
  - Must retain for at least 90 days unless
    - Discharge of a firearm or use of force resulting in substantial bodily harm (must retain for 1 year)
    - Formal complaint against officer (must retain for 1 year)
    - Documents deadly use-of-force incident (must retain indefinitely)
  - After 90 days, follow retention schedule
  - Must allow for requests for longer retention
- Info page and FAQ:
 

<https://mn.gov/admin/data-practices/data/types/body-camera/>

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**Body cam data requirements, cont.**

- Inventory
- Authorized access
- Data sharing
- Audits – send to designated legislative committees
- Notice to BCA
- Vendor requirements
- Written policies and procedures, including public comment
  - New requirements added during 2023 legislative session
- Increased penalties

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**Unmanned Aerial Vehicle (UAV) data (drones)**  
Minn. Stat. §626.19

- Generally private/nonpublic
- Active criminal investigative UAV data = confidential/protected nonpublic.
- Inactive criminal investigative = public
- Other not public data retain classification
- Can be disclosed as necessary in emergency situations as described in statute
- If no investigation, must be deleted no later than 7 days

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**Steps in determining access to videos**

- What kind of video is it?
- Is there an active investigation?
- What section classifies the data?
- What is the classification?
- Who can view the unredacted video?
- Who can have a copy?
- Does public benefit data apply?

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**Classification - active investigation**

<p><b>Dash cam video</b></p> <ul style="list-style-type: none"> <li>• § 13.82</li> <li>• Confidential/protected nonpublic</li> <li>• Those within entity and with statutory authority</li> <li>• No obligation to provide access to data requesters</li> </ul>	<p><b>Body camera video</b></p> <ul style="list-style-type: none"> <li>• §§ 13.825/13.82</li> <li>• Confidential/protected nonpublic</li> <li>• Those within entity and with statutory authority</li> <li>• No obligation to provide access to data requesters</li> </ul>
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**Classification - inactive investigation**

<p><b>Dash cam video</b></p> <ul style="list-style-type: none"> <li>• Classified by § 13.82</li> <li>• Inactive investigative data = public</li> <li>• Exceptions: protected IDs</li> </ul>	<p><b>Body camera video</b></p> <ul style="list-style-type: none"> <li>• Classified by § 13.825</li> <li>• Private data on individuals in video             <ul style="list-style-type: none"> <li>• Exception: Data presented as evidence in court are public under 13.82, subd.7</li> </ul> </li> <li>• Data subjects can view unredacted</li> <li>• Data subject can have copy with other data subjects redacted             <ul style="list-style-type: none"> <li>• On duty officers cannot be redacted</li> </ul> </li> <li>• Data subject can ask video be made public</li> <li>• Undercover officers must be redacted</li> </ul>
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**What do you think?**

A member of the public asks for access to a body camera video from an inactive case. The video was not used as evidence in court.

They also ask for inactive dash camera video.

What can the requester have access to?



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**What do you think?**

An individual who can be seen and heard in a body camera video asks to view the video. The video is inactive investigative data and not introduced as evidence in court. The individual can be seen talking to peace officers for 8 minutes of 1 hour video.

Can the requester access the full hour?



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**What do you think?**

Is an officer entitled to access their own unredacted body camera data for personal use?



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**Body Camera Open Discussion**

What data practices issues do you see when working with body camera data or other law enforcement videos?

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**What other questions do you have?**

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**Lunch break!**  
1 hour

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