



**DEPARTMENT OF
ADMINISTRATION**

Law Enforcement Data


December 2023
Afternoon

1

Agenda

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

2



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Law enforcement video scenarios

Handout 202
Breakout Session Discussion

3

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Miscellaneous Law Enforcement Data

4

Property complaint data
Minn. Stat. §13.44, subd. 1


- Identities of individuals making complaints about the use of real property
 - Violations of state law or local ordinance
 - Confidential
- What constitutes “use of real property”
 - Weeds in a neighbor’s yard?
 - Loud party next door?
 - Barking dog across the street?



5

What do you think?


Question: A requester asks for all police reports about his apartment for the last year. Most of the calls are noise complaints by a neighbor. What should you release?



6

Security information
Minn. Stat. §13.37, subd. 1(a)

- Likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury
- Private/nonpublic
 - RA can provide if access will aid public health, promote public safety, or assist law enforcement
- Not a blanket classification – case-by-case determinations
 - RA must explain upon request




7

What do you think?

Question: A Sheriff’s Office denied access to certain data to a member of the public, citing Minn. Stat. sec. 13.37 (security information) as the applicable classification. The requester asked for a description explaining the necessity of the classification. The entity replied:

“The security data has security information contained in the email about operations.”

Is this a proper response?



8

Data on Decedents
Minn. Stat. §13.10


- Minn. Stat., section 13.10 classifies not public data about data subjects who have died
 - Private data become private data on decedents
 - Confidential data become confidential data on decedents
- Data become public when:
 - 10 years have elapsed since death or presumed death; *and*
 - 30 years have elapsed since creation of data
- Representative of decedent can exercise access rights
 - Personal representative of decedent during administration period
 - If none, then surviving spouse or any child of decedent
 - If no spouse or children, then parents of the decedent

9

Traffic accidents

State Accident Report, Minn. Stat. § 169.09, subd. 13 (207)

- Reports are confidential but shall release upon written request to DPS or any LEA :
 - Parties involved
 - Others suffering injury to person or property
 - Representatives of the estate or surviving spouse
 - Legal counsel and insurers for above
- Must redact identifying info on juvenile who:
 - Was taken into custody, or
 - Suspected of a "major traffic offense"
- Charging for copies
 - DPS can charge \$5
 - LEA can charge per Ch. 13




10

Traffic accidents


Law enforcement data

- Local law enforcement traffic accident data are classified under section 13.82
- LEA must release data contained on DPS Report if necessary to comply with section 13.82, subd. 3 or 6



11

Driver's license data




- Federal law: Driver's Privacy Protection Act (DPPA), 18 USC 2721-2725
 - State DMV employee or contractor shall not knowingly disclose information in motor vehicle records
 - Certain permissible uses
- State law:
 - Minn. Stat. §171.12, subd. 7
 - Data used to obtain a driver's license must be treated as provided in the DPPA
 - Minn. Stat. §171.07, subd. 1a (DVS photographs) – private, but do not have to be provided to the subject

12

What do you think?

How are vehicle identification numbers classified?



13

Automated License Plate Reader Data (ALPR)
Minn. Stat. § 13.824

- ALPR data are private/nonpublic
 - “Non-hit” data cannot be retained more than 60 days
 - Independent, biennial audits required
 - Audit guidance: https://mn.gov/admin/assets/ALPRAudit_tcm36-307907.pdf
 - **Must send audit results to Commissioner of Administration and designated legislative committees**
 - Limits on ALPR data sharing among LE
- Public data:
 - Public log of ALPR use
 - Whether an ALPR was used in arrest
 - Existence of recording technology is public
- ALPR procedures required

14

Criminal background checks

- Examples required by law
 - Law enforcement officers (Minn. Stat. §626.87)
 - School employees, coaches, volunteers (Minn. Stat. §123B.03)
 - Human services licensees (Minn. Stat. Ch. 245C)
- Private data (data subject has access)
- What should law enforcement provide in response to a request?
 - Only public data or private with consent
 - No active criminal investigative data
 - Juvenile data issues

15

Personnel data in law enforcement agencies
 Minn. Stat. §§ 13.43, 626.8457

- Arrest, request for service, and response or incident data regarding agency staff are always public
 - No exception even if used in personnel/internal affairs investigation
 - Can never be withheld as private personnel data
- Certain data must be shared with POST Board
 - LEAs must share public and private data on individual officers for peace officer database
 - Reporting obligation is ongoing; must be updated within 30 days of final disposition
 - Must cooperate with Board’s licensing investigations and data requests
 - Must provide public and private data about alleged misconduct upon request
 - Confidential data must be shared if the Board requests it and needs it for their misconduct investigations

16

Medical information

- **HIPAA:** complete an internal legal analysis to determine if meets the definition of “covered entity”
 - Generally, LEAs are not subject to HIPAA privacy rule
 - Possible covered entities: EMT services, group health plans
 - DPO’s HIPAA guidance for government entities:
<https://mn.gov/admin/data-practices/data/types/patient/hipaa/>
- **Minnesota Health Records Act** (Minn. Stat. §144.293, subd. 2)
 - Health records received *directly from a provider* may not be disclosed without consent/specific authority
 - Health information recorded or collected *by law enforcement* is presumptively public

17

What do you think?

During an investigation, police officers photograph the contents of an individual’s medicine cabinet. Ultimately, the prosecutor declines to pursue the case and the photographs become inactive criminal investigative data.

How are the photos classified?




18

13.821 Videotapes of Child Abuse Victims

- A data subject may not obtain a copy of a videotape in which a child victim or alleged victim is alleging, explaining, denying, or describing an act of physical or sexual abuse without a court order

19

Welfare data and mental health data

- Welfare data, section 13.46, subd. 2(c)
 - Data provided to LEA by welfare system (food assistance, general assistance, MFIP)
 - Confidential active investigative data or private inactive investigative data
 - Except, if inactive because appeals rights exhausted, data are public.
- Mental health data, 13.46, subd. 7(c)
 - Data given to LEA by a community mental health center, county mental health division, or mental health provider
 - Private
 - Must inform subject that mental health data was obtained

20

Maltreatment investigations
Minn. Stat. §§ 260E.20, 260E.35, and 626.557

- Maltreatment of minors, sections 260E.20 and 260E.35
- Maltreatment of vulnerable adults, section 626.557
- Broad authority to share not public data with other agencies responsible for investigating reports, including active criminal investigative data
 - Local welfare agencies
 - Department of Health
 - Department of Human Services
 - Department of Education
 - Vulnerable adult review panel

21

Domestic abuse data

Minn. Stat. § 13.80

- Data collected pursuant to the Domestic Abuse Act = confidential
 - Once a temporary court order is executed or served – data classified by section 13.82
- Must provide public data and certain reports to victim, victim’s attorney, or an organization designated by the OJP *for free*.
- Victims can also access *active* investigative data upon written request to the prosecutor (section 13.82, subd. 13)

22

What do you think?

A member of the public requested an incident report where officers responded to domestic call.

Is this entire report confidential under Minnesota Statutes sec. 13.80?



23

What do you think?

Mom reported that Dad abused their child. Police investigate for possible criminal activity and no charges are filed. The case is now closed.

Dad requests access to the police file. What can he access?




24

What do you think?

A member of the public requested a case file. The case is inactive but involved an investigation into maltreatment of a vulnerable adult.

What can the public access?




25

What do you think?

An LEA received a request for a case involving financial exploitation of a vulnerable adult.

Would this be considered maltreatment?



26

What do you think - Answer

Likely, yes.

Maltreatment and abuse are defined by 626.5572.

Subd. 15 states that maltreatment includes “financial exploitation.”

27

Policies and Procedures

Law Enforcement Policies/Procedures:

- Procedures to acquire and make decisions regarding protected identities (Minn. Stat. §13.82 Subd. 17)
- Portable recording systems adoption (body worn cameras) (Minn. Stat. §626.8473)
- Portable recording system data access procedures (Minn. Stat. §13.825 Subd. 7(b))
- Portable recording system biennial audit (Minn. Stat. §13.825 Subd. 9)
- Unmanned aerial vehicles (drones) (Minn. Stat. §626.19 Subd. 10)
- Automated license plate readers access procedures (Minn. Stat. §13.824 Subd. 7(b))
- Automated license plate readers biennial audit (Minn. Stat. §13.824 Subd. 6)
- Mental health and health records policy (Minn. Stat. §626.8477, added by Laws of Minnesota 2022, chapter 98, article 6, section 20)
- Procedures for computer storage of records maintained about juveniles by peace officers (Minn. Stat. §260B.171 Subd.5(a))


28



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15-minute break

29



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Law enforcement data scenarios, cont.

Handout 208
Breakout Session Discussion

30
