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# Security and Release of Records and Information

## 810.1 PURPOSE AND SCOPE

The purpose of this section is to establish a comprehensive reference and procedure for the maintenance and release of Department reports and records in accordance with applicable law.

This policy does not prevent the Department from making part or all of specific data available to the data subject or the public unless disclosure is expressly prohibited by law or the data is classified as confidential or private, respectively.

### 810.1.1 DEFINITIONS

**Confidential Data on Individuals** - Data that is not public by statute or federal law and is inaccessible to the individual who is the subject of that data (Minn. Stat. § 13.02 Subd. 3).

**Corrections and Detention Data** - Data on individuals created, collected, used or maintained because of their lawful confinement or detention in state reformatories, prisons and correctional facilities, municipal or county jails, lockups, work houses, work farms and all other correctional and detention facilities (Minn. Stat. § 13.85 Subd. 1).

**Data on Individuals** - All government data in which any individual is or can be identified as the subject of that data, unless the appearance of the name or other identifying data can be clearly demonstrated to be only incidental to the data and the data are not accessed by the name or other identifying data of any individual (Minn. Stat. § 13.02 Subd. 5).

**Government Data** - Data collected, created, received, maintained or disseminated by this department regardless of its physical form, storage media or conditions of use (Minn. Stat. § 13.02 Subd. 7).

**Private Data** - Data identifying an individual that is only available with the individual's written consent, to the individual, by court order or search warrant or pursuant to a federal or state statute that grants access (Minn. Stat. § 13.02 Subd. 13).

**Records Management** - The systematic control and management of data throughout the life cycle of the data, including, without limitation, the creation, use, maintenance, retention and ultimate disposition of the data.

## 810.2 PUBLIC REQUESTS FOR RECORDS

The Department shall comply with Minnesota law regarding the management, retention and disposal of its records (Minn. Stat. § 15.17 and Minn. Stat. § 138.17 Subd. 7). Requests shall be routed through the Data Practices Compliance Official pursuant to Minn. Stat. § 13.05, Subd. 13.

The Department shall prepare and make available to the public a document that describes every kind of private and confidential data it maintains (Minn. Stat. § 13.05 Subd. 1). Written procedures shall be developed and prominently displayed in a conspicuous place that is easily accessible to the public and that contain the basic rights of a person who requests government data, the responsibilities of the Department and the cost of inspecting

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or obtaining copies (Minn. Stat. § 13.03 Subd. 1 and Minn. Stat. § 13.03 Subd. 2). The written procedures shall be updated no later than August 1 of each year as necessary to reflect any changes in personnel or circumstances that might affect public access to government data (Minn. Stat. § 13.03 Subd. 2).

Data created by the Department shall be subject to inspection and release pursuant to lawful requests consistent with the Minnesota Government Data Practices Act (MGDPA) requirements (Minn. Stat. § 13.03 Subd. 1). Public requests for data of this department shall be processed as follows:

#### **810.2.1 PROCESSING OF REQUESTS**

Any member of the public, including the media and elected officials, may access public data of this department by submitting a written and signed request for each record sought and paying any associated fees. A person shall be permitted to inspect and copy public government data at reasonable times and places and shall be informed of the data's meaning if requested (Minn. Stat. § 13.03 Subd. 3).

The Department may not charge or require the requesting person to pay a fee to inspect data. A fee may be charged for remote access to data where either the data or the access is enhanced at the request of the person seeking access (Minn. Stat. § 13.03).

The processing of requests is subject to the following:

- (a) The Minnesota Government Data Practices Act Compliance Official processing the request shall determine if the requested data is available and, if so, whether the data is restricted from release. The Data Practices Compliance Official shall inform the requesting person of the determination either orally at the time of the request or in writing as soon after that time as reasonably possible. The Data Practices Compliance Official shall cite the specific statutory section, temporary classification or specific provision of state or federal law on which the determination is based (Minn. Stat. § 13.03 Subd. 3 (f)).
- (b) Inspection includes, but is not limited to, the visual inspection of paper and similar types of government data. Inspection does not include printing copies, unless printing a copy is the only method to provide for inspection of the data (Minn. Stat. § 13.03 Subd. 3 (b)).
- (c) For data stored and made available in electronic form via remote access, public inspection includes allowing remote access by the public to the data and the ability to print copies or download the data (Minn. Stat. § 13.03 Subd. 3 (b)).
- (d) The Department shall provide copies of public data upon request (Minn. Stat. § 13.03 Subd. 3(c)).
- (e) Government data maintained by this department using a computer storage medium shall be provided in that medium in electronic form, if a copy can be reasonably made. The Department is not required to provide the data in an electronic format or program that is different from the format or program in which the data is maintained (Minn. Stat. § 13.03 Subd. 3 (e)).
- (f) The Department shall not be required to create records that do not otherwise exist. However, existing records may be copied in such a manner as to provide the requesting party with unrestricted portions of any data.
- (g) Requests by elected officials for records that are not open to public inspection should be referred to the Administrative Services Division Lieutenant for a determination as to whether the records will be released.

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#### **810.3 REPORT RELEASE RESTRICTIONS**

The Department may temporarily withhold response or incident data from public access when a reasonable belief exists that public access would likely endanger the physical safety of an individual or cause a perpetrator to flee, evade detection or destroy evidence. Upon request the Department shall provide a statement that explains the necessity for withholding the information (Minn. Stat. § 13.82 Subd. 14).

Absent a court order or other statutory authority, data shall be made public subject to the following restrictions:

##### **810.3.1 GENERAL CASE AND CRIME REPORTS**

Data containing any of the items listed below will not be released to the extent that it may reveal any of the following data. In such cases, reports or records shall be redacted prior to release to protect the not public status of the data. (Minn. Stat. § 13.82 Subd. 17):

- (a) **Victim Information** - Victims of crimes who have requested that their identifying information be kept not public, victims who are minors and victims of certain offenses shall not be made public.
- (b) **Confidential Information** - Information involving confidential informants, information that would endanger the safety of any person involved or information that would endanger the successful completion of the investigation or a related investigation shall not be made public when access to the data would reveal the identity of:
  - 1. An undercover law enforcement officer.
  - 2. A victim or alleged victim of criminal sexual conduct.
  - 3. A paid or unpaid informant if the Department reasonably believes revealing the identity would threaten the personal safety of the informant.
  - 4. A person who placed a call to a 9-1-1 system or the identity of the person whose phone was used to place a call to the 9-1-1 system when revealing the identity may threaten the personal safety or property of any person or the purpose of the call was to receive help in a mental health emergency. A voice recording of a call placed to the 9-1-1 system is deemed to reveal the identity of the caller.
  - 5. A juvenile witness when the subject matter of the investigation justifies protecting the identity of the witness.
  - 6. A mandated reporter.
- (c) **General Information** - Absent statutory exemption to the contrary or other lawful reason to deem data from reports confidential, information from unrestricted agency reports shall be made public upon proper request.

The Department shall establish procedures to acquire the data and make the decisions necessary to protect the identity of individuals whose information is protected pursuant to Minnesota law.

##### **810.3.2 DISPATCH RECORDS**

Dispatch data involving a request for law enforcement services shall be subject to release pursuant to Minn. Stat. § 13.82 Subd. 3. The audio recording of a call placed to the 9-1-1 system requesting law enforcement, fire or medical agency response is not accessible to the public although a written transcript of the call shall be released unless the release of the data would reveal the identity of protected individuals. The party requesting such a

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transcript may be required to pay the costs of transcription in advance of the work being performed ( Minn. Stat. § 13.82 Subd. 6).

#### **810.3.3 RESPONSE OR INCIDENT RECORDS**

Response or incident reports created by this department documenting either a response to a call for service or self-initiated actions taken by an officer shall be released to the public unless the release of the data would reveal the identity of protected individuals (Minn. Stat. § 13.82 Subd. 6).

#### **810.3.4 CRIMINAL INVESTIGATION RECORDS**

Criminal investigative data involving active cases shall not be released absent a court order unless otherwise authorized by statute (Minn. Stat. § 13.82 Subd. 7). Inactive investigative data shall be released to the public unless the release of the data would jeopardize another ongoing investigation or would reveal the identity of protected individuals or is otherwise restricted (Minn. Stat. § 13.82 Subd. 7).

#### **810.3.5 ARREST REPORTS**

Arrest data shall be accessible pursuant to Minn. Stat. § 13.82 Subd. 2. Arrestee data shall be subject to release in the same manner as data contained in other reports as set forth above.

The following data created or collected by this department documenting any actions taken to cite, arrest, incarcerate or otherwise substantially deprive an adult individual of liberty shall be public at all times:

- (a) Time, date and place of the action.
- (b) Any resistance encountered by the Department.
- (c) Any pursuit engaged in by the Department.
- (d) Whether any weapons were used by the Department or other individual.
- (e) The charge, arrest or search warrants, or other legal basis for the action.
- (f) The identities of the agencies, units within the agencies and individual persons taking the action.
- (g) Whether and where the individual is being held in custody or is being incarcerated by the Department.
- (h) The date, time and legal basis for any transfer of custody and the identity of the agency or person who received custody.
- (i) The date, time and legal basis for any release from custody or incarceration.
- (j) The name, age, sex and last known address of an adult person or the age and sex of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived of liberty.
- (k) Whether the Department employed wiretaps or other eavesdropping techniques, unless the release of this specific data would jeopardize an ongoing investigation.
- (l) The manner in which the Department received the information that led to the arrest, and the names of individuals who supplied the information unless the identities of those individuals qualify for protection under Minn. Stat. § 13.82 Subd. 17.
- (m) Response or incident report number.
- (n) Booking photographs.

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In addition to the restrictions stated above, all requests from criminal defendants and their authorized representatives, including attorneys, made pursuant to the Minnesota Rules of Criminal Procedure or as discovery in a criminal prosecution, shall be referred to the City Attorney.

State criminal history information including, but not limited to, arrest history and disposition, fingerprints and booking photos shall only be subject to release to those agencies and individuals as prescribed by law (Minn. Stat. 13.87).

#### **810.3.6 CORRECTIONS AND DETENTION DATA**

Corrections and detention data is private unless the data are summary data or arrest data, or a statute specifically provides a different classification. Corrections and detention data on individuals are classified as private pursuant to Minn. Stat. § 13.02 Subd. 12, to the extent that the release of the data would either disclose medical, psychological, or financial information, or personal information not related to their lawful confinement or detainment, or endanger an individual's life (Minn. Stat. § 13.85 Subd. 2).

Corrections and detention data are confidential, pursuant to Minn. Stat. § 13.02 Subd. 3, to the extent that release of the data would endanger an individual's life, endanger the effectiveness of an investigation authorized by statute, and relating to the enforcement of rules or law, identify a confidential informant or clearly endanger the security of any institution or its population (Minn. Stat. § 13.85 Subd. 3).

Corrections and detention are public data after any presentation to a court, any data made private or confidential by Minn. Stat. § 13.85 shall be public to the extent reflected in court records (Minn. Stat. § 13.85 Subd. 4).

The responsible authority or its designee of any agency that maintains corrections and detention data may release private or confidential corrections and detention data to any law enforcement agency, if necessary for law enforcement purposes, or to the victim of a criminal act where the data are necessary for the victim to assert the victim's legal right to restitution (Minn. Stat. § 13.85 Subd. 5).

#### **810.3.7 TRAFFIC COLLISION REPORTS**

Traffic collision reports and related supplemental reports shall be considered not public and subject to release only to other law enforcement agencies, involved individuals and their authorized representatives (Minn. Stat. § 169.09 Subd. 13).

A traffic collision report shall be released to a person who provides two or more of the following items in addition to any fee required:

- (a) The date of the collision.
- (b) The specific address or the highway or street.
- (c) The name of any person involved in the collision.

#### **810.3.8 JUVENILE RECORDS**

Juvenile records and data shall be maintained, secured and released as required by Minn. Stat. § 260B.171.

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#### **810.3.9 PERSONNEL RECORDS**

The following personnel data regarding an employee of this department is public data unless the person is currently assigned to undercover operations (Minn. Stat. § 13.43 Subd. 2 Subd. 5):

- (a) Name, employee identification number and some aspects of compensation.
- (b) Job title, bargaining unit, job description, education and training background and previous work experience.
- (c) Date of first and last employment.
- (d) Existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action.
- (e) Final disposition of any disciplinary action together with the specific reasons for the action, and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of this department.
- (f) Terms of any agreement settling any dispute arising out of an employment relationship.
- (g) Work location, work telephone number, badge number and honors and awards received.
- (h) Time sheets or other comparable data only used to account for an employee's work time for payroll purposes, excluding the use of sick or other medical leave or other not public data.

All other personnel data regarding employees of this department are private data and may only be released as authorized by that classification (Minn. Stat. § 13.43 Subd. 4).

#### **810.4 OTHER RECORDS**

Any other record not addressed in this policy shall not be subject to release where such record is classified as other than public data. All public data shall be released as required by the MGDPA (Minn. Stat. § 13.03 Subd. 1).

The Department may temporarily withhold data classified as public if it is reasonably determined that public access would likely endanger the physical safety of an individual or cause a perpetrator to flee, evade detection or destroy evidence (Minn. Stat. 13.82 Subd. 14).

Any data that was created under the direction or authority of the City Attorney exclusively in anticipation of potential litigation involving this department shall be classified as protected nonpublic or confidential data while such action is pending (Minn. Stat. 13.39).

#### **810.4.1 PERSONAL IDENTIFYING INFORMATION**

Employees shall not access, use or disclose personal identifying information, including an individual's photograph, social security number, driver identification number, name, address, telephone number and the individual's medical or disability information, which is contained in any driver license record, motor vehicle record or any department record except as authorized by the Department and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721 and 18 USC § 2722).

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#### **810.5 SUBPOENA DUCES TECUM**

Any Subpoena Duces Tecum or discovery request should be promptly provided to a supervisor for review and processing. While a Subpoena Duces Tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested data.

All questions regarding compliance with any Subpoena Duces Tecum should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

#### **810.6 RELEASED RECORDS TO BE STAMPED**

Any record released pursuant to a Subpoena Duces Tecum shall be certified as a true and correct copy of the record of this department.

#### **810.7 PRIVACY AND SECURITY OF RECORDS**

Records such as offense reports, arrest reports, juvenile records or other sensitive records shall be secured in such a manner as to reasonably protect them from unauthorized disclosure.