

House Judiciary Finance and Civil Law
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Minnesota Coalition on Government Information (MNCOGI)
Written testimony of Matt Ehling, MNCOGI board member
HF 855, First Engrossment

MNCOGI thanks Representative Frazier for bringing forward updates to Chapter 13's body camera regulation language, found in HF 855, First Engrossment. MNCOGI supports the bill's standardized, 14-business day period for releasing body camera footage that documents lethal force action. MNCOGI supported this same standard in the Senate, where it is contained within SF 1888 — a bill that was laid over several days ago for inclusion in a larger public safety bill.

Given the fact that the past week has allowed more time to evaluate the overall technical details of SF 1888/HF 855, MNCOGI has spoken with several stakeholders, and has identified some further modifications that would be helpful to ensure that the access provided by HF 855 is fully realized. These modifications are identified below:

1. MNCOGI suggests the following changes to the language found on lines 5.1-5.20 by striking the existing language and inserting the following:

Minnesota Statutes 2022, section 13.82, is amended to add subdivision 15a.

Subd. 15a. Officer-involved data. A law enforcement agency must provide access to portable recording system data as defined by 13.825, subd. 1(a)(2) and law enforcement vehicle dashboard camera data that record, describe, or otherwise document actions and circumstances surrounding the use of force by a peace officer that results in death as follows:

(a) Notwithstanding subdivision 7 and upon request, an involved-officer's law enforcement agency must allow the following individuals to inspect all portable recording system data and law enforcement vehicle dashboard camera data documenting the incident within five business days of the incident, subject to paragraphs (b) and (d):

- (1) The deceased individual's next of kin;
- (2) The legal representative of the deceased individual's next of kin;
- (3) The other parent of the deceased individual's children.

(b) A law enforcement agency may deny a request if the agency determines that there is a compelling reason that inspection would interfere with an active investigation. If the agency denies access under this paragraph, the chief law enforcement officer must provide a prompt, written denial to the individual in paragraph (a) who requested access to the data, which must include a short description of the compelling reason access was denied, and must provide notice that relief may be sought from the district court pursuant to 13.82, subd. 7.

(c) Subject to paragraph (d), an involved officer's law enforcement agency shall release all data subject to this subdivision as public data no later than 14 business days after the incident, unless the agency determines that there is a compelling reason that the public classification would interfere with an active investigation, in which case the data shall remain classified by subdivision 7. If the agency denies access under this paragraph, the chief law enforcement officer must provide a prompt, written denial to the person who requested access to the data, which must include a short description of the compelling reason access was denied, and must provide notice that relief may be sought from the district court pursuant to 13.82 subd. 7.

(d) Data subject to subdivisions 8, 10, and 17 must be redacted from any data inspected or released under this subdivision.

Minnesota Statutes 2022, section 13.825, subd. 2(a)(3) is amended to read:

(3) subject to section 13.82, subdivision 15 and 15a, portable recording system data that are active criminal investigative data are governed by section 13.82, subdivision 7, and portable recording system data that are inactive criminal investigative data are governed by this section;

NOTES: These changes move the “dashboard camera” references out of § 13.825, which is a section that exclusively regulates body camera (“portable recording system”) data. Also, the various requirements for providing time-standardized access to both body camera and dashboard camera data would be moved to the overall 13.82 law enforcement section of the Data Practices Act (into a new subdivision number 15a), since they constitute a procedural amendment to 13.82, subd. 7, the criminal investigative data provision of 13.82. MNCOGI has also recommend a uniform “compelling reason” standard in both the 5-day (family viewing) and 14-day (public release) sections, and has added a reference to the existing 13.82 subd. 7 district court review process for contesting the withholding of active investigative data.