

m DEPARTMENT OF ADMINISTRATION

Data Practices Overview

MN House Judiciary Finance & Civil Law

January 17, 2019

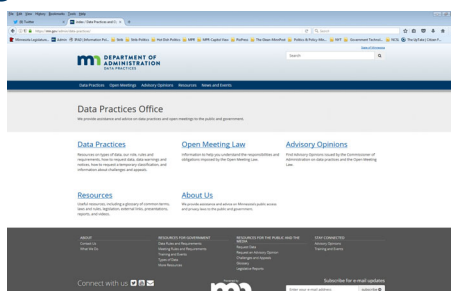
By The Numbers

Overall, Admin oversees the following and more ...



Data Practices Office Who we are and what we do

- Statewide resource on Minnesota’s data practices and open meeting laws
 - ✓ Informal advice/technical assistance to government, public, media and Legislature
 - ✓ Commissioner’s duties
 - ✓ Advisory opinions
 - ✓ Temporary classifications of data
 - ✓ Website, newsletters, Twitter
 - ✓ Legislative assistance
 - ✓ Training



Question #1

A City receives a data request for official records that could have been destroyed 10 years ago, according to its records retention schedule.

Must the City produce the data for the requester?



Answer: Yes

- Data Practices Act, Minnesota Statutes, Chapter 13
 - Presumes government data are public
 - Classifies data that are not public
 - Provides rights for the public and data subjects
 - Requires that data on individuals are accurate, complete, current, and secure
- Minnesota Rules, Chapter 1205
- The Official Records Act (Minn. Stat. § 15.17), Manual p. 17-18
- The Records Management Statute (Minn. Stat. § 138.17)

2019

mn.gov/admin/data-practices


Data Request: Response Time

	Member of the Public (Section 13.03, subd. 3)	Data Subject (Section 13.04, subd. 2)
Inspection and/or copies	Appropriate and prompt, a reasonable amount of time	Immediately, if possible or 10 business days

Copy Costs		
	Member of the Public	Data Subject
Inspection	No charge or fee allowed	No charge or fee allowed
Copies	<ul style="list-style-type: none"> ❖ 25¢ per page <ul style="list-style-type: none"> 100 or fewer, black and white, legal/letter size paper copies ❖ Actual cost <ul style="list-style-type: none"> ◆ All other copies ◆ Time for search and retrieval ◆ Time to make and transmit ◆ Materials ◆ No charge to separate public from not public data ◆ Electronic data 	<ul style="list-style-type: none"> ❖ Actual cost <ul style="list-style-type: none"> ◆ Time to make and transmit ◆ Materials ◆ No charge for search and retrieval ◆ No charge to separate public from not public data ◆ No charge to redact private or confidential data about others

Question #2

Are the written notes taken during a School Board meeting government data?



2019 mn.gov/admin/data-practices

Answer: Probably

- "Government data" means all data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use.
- There is no exception for "working papers"
- Even Post-It notes could be government data

2019

mn.gov/admin/data-practices

Question #3

- Is an email from your legislative address to your mother about her birthday government data?
- Is a State Agency employee's email from her personal email address responding to your legislative question government data?



2019

mn.gov/admin/data-practices

Answer

- Email from your legislative address = not government data
 - MN Legislature not subject to Data Practices Act
 - Your decision whether emails with constituents are public
 - MN Courts are also not subject to the Data Practices Act
- Work email from personal account = government data
 - Could be public (remember the presumption)
 - Does not turn all employee's emails from personal account into government data

2019

mn.gov/admin/data-practices

Classification of Government Data

Classification	Meaning of Classification	Examples
Public	Available to anyone for any reason	-- Employee name -- Employee salary -- Final disposition of discipline
Private/Nonpublic	Available to: <ul style="list-style-type: none"> • Data subject • Those in the entity whose work requires access • Entities authorized by law • Those authorized by data subject 	-- Employee home address/phone -- Substance of complaint when no discipline
Confidential/ Protected nonpublic	Available to: <ul style="list-style-type: none"> • Those in the entity whose work requires access • Entities authorized by law 	-- Active licensing investigative data -- Active criminal investigative data
	Not available to data subject	

2019

mn.gov/admin/data-practices

Question #4

A State Agency is in the process of investigating a complaint against one of its employees and receives a data request about the complaint.

What can it release?



2019

mn.gov/admin/data-practices

Answer: Personnel data

- While the complaint is being investigated, only the **existence** and **status** of the complaint is public
- Once the complaint is resolved, other data may become public

2019

mn.gov/admin/data-practices

Question #5

An individual was shot to death at a private home. A 911 call summoned the police. A suspect is arrested. There is an active criminal investigation into the incident.

Local media requested the following:

- Names of witnesses
- Name, date of birth, and city of residence of alleged shooter
- Address of where shooting took place

Can the media access the requested data?

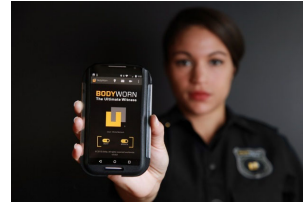
Question #5 Answer

- Names of witnesses?
 - Public under §13.82, subd. 6(g)
 - Unless data identifies individuals who qualify for protection under §13.82, subd. 17
- Name, DOB, and residence of shooter?
 - Public: §13.82, subd. 2(j) as arrest data
 - Can withhold as active criminal investigative data under §13.82, subd. 7, but as soon as an individual is detained/arrested, name and address are always public
- Address where shooting took place?
 - Public: Response or Incident Data §13.82, subd. 6(a), place of action

Question #6

Responding to a domestic disturbance, officers activate their body-worn cameras. The officers enter the home and observe a man hitting a woman. A child and another adult woman are in the same room.

- The officers arrest the man for assault.
- The officers interview each of the adults before leaving the scene.
- The investigation is active.
- The next day, a neighbor asks for a copy of the body camera videos.



What should you release to the neighbor?

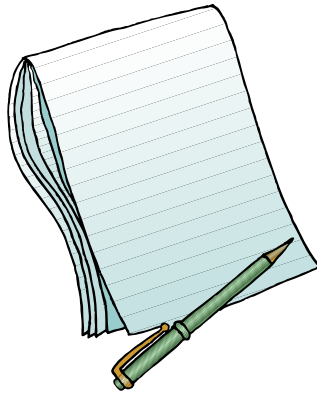
Question #6

Answer

- While investigation is active, all data in the video are confidential (§13.82, subd. 7)
 - Neighbor has no access to the video
- When the investigation becomes inactive, the data in the video are private (§13.825)
 - Neighbor has no access to the video
- Neighbor **does** have access to public data in the incident report (§13.82)

Question #7

Can I request an advisory opinion?



2019

mn.gov/admin/data-practices

Answer: It Depends

- The Data Practices Act requires that an opinion requester to have “standing”
 - Only a government entity can request an opinion on questions relating to public access to data, rights of data subjects, and classification of data
 - But any person who disagrees with a government entity's determination about data practices can request an opinion related to the person's rights as a subject of government data or right to access government data
- Legislative members and staff must have a disagreement about a data request or the way government handled their own data to have “standing”

2019

mn.gov/admin/data-practices

Question #8



Are there penalties for violating the Data Practices Act?

2019

mn.gov/admin/data-practices

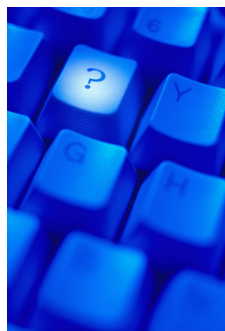
Answer: Yes

- Remedies (Minn. Stat. §13.08)
 - Action to compel compliance
 - Action for damages, costs, and attorneys fees
- Administrative remedy (Minn. Stat. §13.085)
 - Action to compel compliance within 2 years of alleged violation
- Penalties (Minn. Stat. §13.09)
 - Willful violation = misdemeanor
 - Dismissal or suspension
- Advisory opinions (Minn. Stat. §13.072)

2019

mn.gov/admin/data-practices

BONUS Question



Where do I go for more assistance in understanding the Data Practices Act?

2019

mn.gov/admin/data-practices

Department of Admin, Data Practices Office



Website: mn.gov/admin/data-practices

Phone: 651-296-6733

Email: info.dpo@state.mn.us

2019

mn.gov/admin/data-practices



Thank you!

Stacie Christensen, Director

Data Practices Office

stacie.christensen@state.mn.us

651-201-2500

Laurie Beyer-Kropuenske, Director

Community Services Division

laurie.beyer-kropuenske@state.mn.us

651-201-2501

2019

mn.gov/admin/data-practices