
Records Maintenance and Release

808.1 SECTION TITLE

808.2 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of office records. Protected information is separately covered in the Protected Information Policy.

808.2.1 DEFINITIONS

Definitions related to this policy include:

Confidential Data on Individuals - Data classified as confidential by state or federal law and that identifies individuals and cannot be disclosed to the public or even to the individual who is the subject of the 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 detainment 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 office regardless of its physical form, storage media or conditions of use (Minn. Stat. § 13.02, Subd. 7).

Private Data - Data classified as private by state or federal law and that identifies individuals that are only available to the individual who is the subject of the data or with the individual's consent (Minn. Stat. § 13.02, Subd. 12).

808.3 DATA PRACTICES CONTACTS

The Lyon County Sheriff shall act as the Responsible Authority for data collected and held by the Lyon County Sheriff's Office.

See attachment: Address.JPG

808.4 COPY COSTS-DATA SUBJECTS AND MEMBERS OF PUBLIC

The Lyon County Sheriff's Office charges for copies of government data. These charges are authorized under Minnesota Statutes, section 13.04, subdivision 3. You must pay for the copies and delivery method of the requested before we can provide them to you.

Copy charges are set annually by the Lyon County Board of Commissioners and can be found on the Lyon County Sheriff's Office Fee Schedule.

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808.5 STANDARDS FOR VERIFYING IDENTITY

The following constitute proof of identity.

- (a) An **adult individual** must provide a valid photo ID, such as:
 - 1. A state issued driver's license
 - 2. A military ID
 - 3. A passport
 - 4. A Minnesota ID
 - 5. A Minnesota tribal ID

- (b) A **minor individual** must provide a valid photo ID, such as:
 - 1. A state issued driver's license
 - 2. A military ID
 - 3. A passport
 - 4. A Minnesota ID
 - 5. A Minnesota tribal ID
 - 6. A Minnesota school ID

- (c) The **parent of guardian of a minor** must provide a valid photo ID *and either*
 - 1. A certified copy of the minor's birth certificate *or*
 - 2. A certified copy of documents that establish the parent or guardian's relationship to the child, such as:
 - (a) A court order relating to divorce, seperation, custody, foster care
 - (b) A foster care contract
 - (c) An affidavit of parentage

- (d) The **legal guardian for an individual** must provide a valid photo ID *and* a certified copy of the appropriate documentation of formal or informal appointment as guardian, such as:
 - (a) Court order(s)
 - (b) Valid power of attorney

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Note: Individuals who do not exercise their data practices rights in person must provide *either* notarized or certified copies of the documents that are required of an affidavit of ID.

808.6 INVENTORY OF PRIVATE AND CONFIDENTIAL (NON-PUBLIC) DATA

See attachment: Lyon Co. SO-MN Data Practices Act Spreadsheet PAGE 1.jpg

See attachment: Lyon Co. SO-MN Data Practices Act Spreadsheet PAGE 2.jpg

808.7 RECORD RETENTION, AND DESTRUCTION

The Lyon County Sheriff's Office has adopted the Minnesota Historical Society's MN County General Records Retention Schedule :

- (a) Records Common to All Departments
- (b) Medical Examiner Records
- (c) Sheriff/Law Enforcement Records

SEE Attachment NOTIFICATION OF ADOPTION OF COUNTY RETENTION SCHEDULE

See attachment: Adoption of County Schedule.pdf

SEE Attachment of Retention Schedules

See attachment: Retention Schedules.pdf

The Reposable Authority shall see that annually, or as data and records meeting the destruction schedule meet the retention schedule criteria they will be evaluated for disposal and destruction.

Records determined to meet the retention schedule and that are determined to have no value in retention are to be disposed of, deleted and fully destroyed of in a manner suitable for its medium. Hardcopy/paper records shall be shredded by mechanical means. Digital records are to be deleted and wiped in a manner consistent with destruction of the record so that no data or information is recoverable (Minn. Stat. § 13.05 Subd 5 (b)).

808.8 POLICY

The Lyon County Sheriff's Office is committed to providing public access to records and data in a manner that is consistent with the Minnesota Government Data Practices Act (MGDPA) and Official Records Act (Minn. Stat. § 13.03; Minn. Stat. § 15.17).

808.9 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Sheriff shall designate a Custodian of Records The responsibilities of the Custodian of Records include, but are not limited to:

- (a) Managing the records management system for the Office, including the retention, archiving, release and destruction of office data (Minn. Stat. § 15.17; Minn. Stat. § 138.17, Subd. 7).

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- (b) Maintaining and updating the office records retention schedule including:
 - 1. Identifying the minimum length of time the Office must keep data.
 - 2. Identifying the office division responsible for the original data.
- (c) Establishing rules regarding the inspection and copying of office data as reasonably necessary for the protection of such data.
- (d) Identifying data or portions of data that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of data.
- (f) Ensuring a current schedule of fees for public data as allowed by law is available.
- (g) Ensuring the posting or availability to the public a document that contains the basic rights of a person who requests government data, the responsibilities of the Office and any associated fees (Minn. Stat. § 13.025).
- (h) Ensuring data created by the Office is inventoried and subject to inspection and release pursuant to lawful requests consistent with the MGDPA requirements (Minn. Stat. § 13.03, Subd. 1).
- (i) Ensuring that data created by the department is complete, accurate and current for the purpose it was collected. If it is found that data is incorrect, or incomplete, the data shall be corrected as soon as reasonably possible. Subjects of Data who determine that their data is incomplete or inaccurate may notify the Responsible Authority or the Custodian of Records of the incompleteness or inaccuracy. The data in question will be evaluated and a written response to the data subject shall be completed identifying the corrected data, or the reasons in which the request to correct the data has been denied (Minn. Stat. §13.05, Subd 5(a)).

808.10 DATA SECURITY

The Responsible Authority and the Custodian of Records shall develop and maintain appropriate safeguards to ensure that all data and records on individuals is maintained to ensure that any non-public, private and confidential data are safeguarded. The Responsible Authority shall develop policy and procedure to ensure that data and records are stored and maintained in manner that provides secure data sharing among government entities as provided by law, as well as policy and procedures to ensure that data is only accessible to those personnel whose work assignment require access to non-public data.

The Custodian of Records shall maintain the department's record system CIS (Computer Information Services) Record Management Systems (RMS) software and Computer Aided Dispatch (CAD) and any other associated applications that contain private and confidential data as the systems manager. The Systems Manager will ensure that all department users whose job duties require access to records and data on individuals have been properly trained on data security and data release. The Systems Manager shall also maintain a record/roster of personnel who have access to applications, and maintain both user identification and password restricted privilege levels within the CIS records system (Minn. Stat. §13.05 Subd 5(a)(2) and (3)).

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SEE- Policy 810 Protected Information

808.11 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any office member who receives a request for data shall route the request to the Custodian of Records or the authorized designee. The request for data shall be evaluated and be complied or answered in a prompt and reasonable manner based on the scope of the request and ability to determine releasability of the data. Response to the requestor as to the status of the request and timeline for availability of the data shall be made as soon as practical if immediate release of the data is not possible at the time of the request (Minn. Stat. § 13.03, Subd 2(a)).

808.11.1 REQUESTS FOR RECORDS

The processing of requests for data is subject to the followingg

- (a) A person shall be permitted to inspect and copy public government data upon request at reasonable times and places and shall be informed of the data's meaning if requested (Minn. Stat. § 13.03, Subd. 3).
 - 1. The Office may not charge or require the requesting person to pay a fee to inspect data. 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)).
 - 2. 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. 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, Subd. 3(b)).
- (b) Government data maintained by this office using a computer storage medium shall be provided in that medium in electronic form, if a copy can be reasonably made. The Office 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)).
- (c) The Office is not required to create records that do not exist.
- (d) The Custodian of Records or designee processing the request shall determine if the requested data is available and, if so, whether the data is restricted from release or denied. The Custodian of Records or designee 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 Custodian of Records or designee shall cite the specific statutory section, temporary classification or specific provision of state or federal law on which the determination is based. Upon the request of any person denied access to data, the denial shall be certified in writing (Minn. Stat. § 13.03, Subd. 3 (f)).
- (e) When a record contains data with release restrictions and data that is not subject to release restrictions, the restricted data shall be redacted and the unrestricted data released.

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1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redaction. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the office-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
- (f) When a record contains data that is considered Private Data, release or inspection of the record or data shall be limited to: The subject of the data, and any applicable federal or state law; or individual within department whose work assignments reasonably require access; and any other personnel, entity or agency as determined by the responsible authority who are authorized by statute or federal law to access specific data; or entities or specific individuals given access by express written direction of the data subject.
1. Standards of identification of Data Subject as verified in 808.4.
 2. Signed and verified, or notarized *Informed Consent for Release* form.

808.11 RELEASE RESTRICTIONS

Example of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address and telephone number; and medical or disability information that is contained in any driver's license record, motor vehicle record or any office record, including traffic collision reports, is restricted except as authorized by the Office, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Private data on the following individuals (Minn. Stat. § 13.82, Subd. 17):
1. An undercover law enforcement officer.
 2. A victim or alleged victim of criminal sexual conduct, or sex trafficking, or of a violation of Minn. Stat. § 617.246, Subd. 2.
 3. A paid or unpaid informant if the Office reasonably believes revealing the identity would threaten the personal safety of the informant.
 4. A victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, unless the Office reasonably determines that revealing the identity of the victim or witness would not threaten the personal safety or property of the individual.
 5. 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.
 6. A juvenile witness when the subject matter of the investigation justifies protecting the identity of the witness.

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7. A mandated reporter.
- (c) Audio recordings of calls placed to the 9-1-1 system requesting law enforcement, fire or medical agency response, except that a written transcript of the call is public unless it reveals the identity of protected individuals. (Minn. Stat. § 13.82, Subd. 4).
 - (d) Criminal investigative data involving active cases and inactive investigative data (Minn. Stat. § 13.82, Subd. 7):
 1. If the release of the data would jeopardize another ongoing investigation or would reveal the identity of protected individuals or is otherwise restricted.
 2. Images and recordings, including photographs, video and audio records that are clearly offensive to common sensibilities. However, the existence of any such image or recording shall be disclosed.
 3. As otherwise restricted by law.
 - (e) Juvenile records and data (Minn. Stat. § 260B.171).
 - (f) State criminal history data held in the Bureau of Criminal Apprehension (BCA) database including, but not limited to, fingerprints, photographs, identification data, arrest data, prosecution data, criminal court data, custody and supervision data (Minn. Stat. § 13.87).
 - (g) Traffic collision reports and related supplemental information (Minn. Stat. § 169.09, Subd. 13).
 - (h) Corrections and detention data (Minn. Stat. § 13.85).
 - (i) Personnel data except, unless otherwise restricted, (Minn. Stat. § 13.43, Subd. 2):
 1. Name, employee identification number and some aspects of compensation.
 2. Job title, bargaining unit, job description, education and training background and previous work experience.
 3. Date of first and last employment.
 4. Existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action.
 5. 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 office.
 6. Terms of any agreement settling any dispute arising out of an employment relationship.
 7. Work location, work telephone number, badge number and honors and awards received.
 8. 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 nonpublic data.
 9. All other personnel data regarding employees of this office are private data and may only be released as authorized by that classification.

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- (j) Any data that was created under the direction or authority of the County Attorney exclusively in anticipation of potential litigation involving this office shall be classified as protected nonpublic or confidential data while such action is pending (Minn. Stat. § 13.39).
- (k) All data collected by an Automated License Plate Reader (ALPR) on individuals or nonpublic data absent an exception (Minn. Stat. § 13.82; Minn. Stat. § 13.824).
- (l) Response or incident data, so long as the Custodian of Records determines 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 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).

808.11.1 ACCESS TO PRIVATE DATA OF SUBJECTS WHO ARE MINORS

Access to private data concerning minors shall be restricted to the individual (Minor) who is the subject of the data; those individual with the department whose work assignments require access to such records and data and any other entity or agency who is required access to the data by statute or federal law, and parents of the minor. The responsible authority shall assume the parent(s) has authority to exercise the right to receive and access the private data of the minor child unless provided evidence that there is state law, court order governing such release of the data such as divorce decree, separation or custody agreement or other legally binding instrument which provides to the contrary.

Access to private data of a minor by parent(s):

- (a) Access to private data of a minor may be denied to parent when the minor, who is the subject of the data, provides the responsible authority a written request denying such access. The responsible authority shall also provide notice to the minor that they have the right to request that their private data be restricted from parental access. The written request shall contain the reasons that access to the private data should be denied. Upon receipt of the request, the responsible authority shall make a determination based if honoring the request to deny parental access is in the best interest of the minor data subject based on the following:
 1. Whether the minor is of sufficient age and maturity to be able to explain the reasons for and to understand the consequences of the request to deny access.
 2. Whether the personal situation of the minor is such that denying the parental access may protect the minor from physical or emotional harm.
 3. Whether there is ground for believing that the minor data subject's reasons for precluding parental access are reasonably accurate.
 4. Where the data in question is of such a nature that disclosure of it to the parent could lead to physical or emotional harm to the minor data subject; and
 5. Whether the data concerns medical, dental or health services provided pursuant to MSS, sections 144.341 to 144.347. If so, the data may be released only if failure to inform the parent would seriously jeopardize the health of the minor.

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808.13 REQUESTS FOR SUMMARY DATA

Requests for Summary Data are to be provided to the Responsible Authority or his designee in writing by completing a *Data Request Form*. Within 10 days of receipt of the request for summary data, the responsible authority shall inform the requestor of the estimated costs (if any) and provide the requested summary data, or provide a written statement to the requestor describing the time schedule for preparing the requested summary data including the reasons for the delay; or provide the requestor access to the data for the purposes of the requestor's preparation of summary data; or provide a written notice to the requestor that access to the summary data has been denied and the reasons the requestor is denied access to the summary data.

Summary Data shall be prepared in accordance with statute or any applicable law and redacting or removing any other personal identifiers or other private data or information from the Summary Data record.

Requestors of Summary Data may be required to complete a Nondisclosure Agreement as required by MSS 13.05 Subd 7.

Cost of preparation of Summary Data are borne by the requestor. In assessing the cost of Summary Data and its preparation the Responsible Authority shall:

- (a) Provide the requestor an estimate of the costs associated with the request.
- (b) Request payment in advance of preparation of the Summary Data.
- (c) Charge only for reasonable copying costs when requests require only copying and no other preparation of the Summary Data request.
- (d) Take in to account the reasonable value of the Summary Data to the entity of the data prepared and reduce the costs assessed to the requesting party.

808.14 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for data should promptly contact a supervisor and the Custodian of Records 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.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the County Attorney, County Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Office so that a timely response can be prepared.

808.15 EXPUNGEMENT

A petition for expungement and expungement orders received by the Office shall be reviewed for appropriate action by the Custodian of Records.

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808.15.1 PETITION FOR EXPUNGEMENT

When responding to a petition for expungement, the Custodian of Records shall inform the court and the individual seeking expungement that the response contains private or confidential data (Minn. Stat. § 609A.03, Subd. 3).

808.15.2 ORDERS OF EXPUNGEMENT

The Custodian of Records shall expunge such records as ordered by the court. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction. Once a record is expunged, members shall respond to any inquiry as though the record did not exist.

Upon request by the individual whose records are to be expunged, the Custodian of Records must send a letter at an address provided by the individual confirming the receipt of the expungement order and that the record has been expunged (Minn. Stat. § 609A.03, Subd. 8).

Expunged records may be opened only by court order (Minn. Stat. § 609A.03, Subd. 7).

Expunged records of conviction may be opened for purposes of evaluating a prospective employee of the Office without a court order.

The Custodian of Records shall inform any law enforcement, prosecution or corrections authority, upon request, of the existence of a sealed record and of the right to obtain access to it.

808.16 MAINTENANCE OF CLOSED 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. Closed records shall be kept separate from public records and shall remain confidential.