

Classification of Data in Police Body Camera Videos

Like all other law enforcement data, the data in body camera (“body cam”) videos is classified under Minnesota Statutes, section 13.82. When a law enforcement agency receives a data practices request, the agency must review the body cam data and make decisions about how to redact data prior to providing public access on a case-by-case basis. Although a data subject in a body cam video has access to private data about him/herself and can share the video as the subject deems appropriate, law enforcement is obligated to review the video prior to release and make decisions about potentially redacting data about other subjects in the video.

Protected or “not public” data

In responding to a data practices request, a law enforcement agency either can or must withhold from public access (“redact”) the following protected identities:

- Undercover law enforcement officers (Minn. Stat. 13.82, subd. 17(a))
- Victims of criminal sexual conduct or sex trafficking (Minn. Stat. 13.82, subd. 17(b))
- Paid or unpaid informants if a threat to personal safety (Minn. Stat. 13.82, subd. 17(c))
- Victim of or adult witness to a crime, upon request, unless no threat to safety (Minn. Stat. 13.82, subd. 17(d); advisory opinions [94-060](#), [00-078](#), [01-069](#), [03-042](#), [04-033](#), [08-006](#), [12-014](#))
- Certain 911 callers in mental health emergencies (Minn. Stat. 13.82, subd. 17(f); advisory opinion [01-050](#))
- Juvenile witnesses if protection is justified (Minn. Stat. 13.82, subd. 17(g); advisory opinion [03-042](#))
- Mandated reporters of child or vulnerable adult maltreatment (Minn. Stat. 13.82, subd. 17(h))
- Delinquent or alleged delinquent juveniles (Minn. Stat. 260B.171, subd. 5; advisory opinion [03-042](#))

Law enforcement agencies must withhold or redact the following “not public” data:

- Active criminal investigative data (Minn. Stat. 13.82, subd. 7)
- Certain domestic abuse data related to an Order For Protection (OFP) (Minn. Stat. 13.80; Minn. Stat. 299C.46, subd. 6(c))
- Child abuse or neglect data (Minn. Stat. 13.82, subd. 8)
- Vulnerable adult maltreatment data (Minn. Stat. 13.82, subd. 10)
- Sexual assault communication data (Minn. Stat. 13.822)
- Identities of individuals who make complaints about the violation of real property (Minn. Stat. 13.44; advisory opinions [99-045](#), [00-036](#), [08-003](#))

Note: The Minnesota Health Records Act (Minn. Stat. 144.291 et seq.) protects medical records that law enforcement receives directly from a medical provider. However, HIPAA does not protect medical information created by law enforcement agencies because most agencies are not subject to the federal privacy requirements.

Redacting “identity”

In reviewing body cam videos for possible redaction, identity can include more than an individual’s name, face, or voice. **Identity can also include circumstances and surroundings that may identify individuals.** If an identity is protected, a law enforcement agency must redact all data that could reveal a protected individual’s identity.

“Clearly offensive to common sensibilities” and “inextricably intertwined”

Beyond redacting protected identities and other “not public” data, body cam data that are “**clearly offensive to common sensibilities**” may be withheld from the public under current law at the discretion of law enforcement (Minn. Stat. 13.82, subd. 7; advisory opinions [94-030](#), [95-032](#), [99-032](#)). Data subjects may still have access.

The Minnesota Court of Appeals has held that when public and not public information is so **inextricably intertwined** that segregation of the material would impose a significant financial burden and leave the remaining with little informational value, data may be withheld. (See *Northwest Publications, Inc. v. City of Bloomington*, 499 N.W.2d 509 (Minn. App. 1993); see also advisory opinions [11-018](#), [03-010](#)).

Administrative feasibility

When there is an active criminal investigation, law enforcement may withhold access to the actual physical data (original body cam video) classified as “always public” under subdivisions 2, 3, and 6, if it is not administratively feasible to redact not public data (Minn. Stat. 13.82, subd. 16). However, law enforcement must still provide access to the public data described in subdivisions 2, 3 and 6 in a “reasonable manner.” When the investigation is inactive, law enforcement must provide access to the actual physical data.

The application of subdivision 16 to body cam video is very limited because it applies only when all data in the video are part of an active criminal investigation. Subdivision 16 does not allow for withholding access to the actual physical data (original body cam video) when there is a mix of presumptively public data, “always public” data described in subdivisions 2, 3, and 6, and active criminal investigative data.

Examples

The following illustrate types of situations law enforcement agencies may face in reviewing body cam video for public access. The chart also illustrates redaction considerations related to protecting identities, inextricably intertwined data, and situations clearly offensive to common sensibilities in making decisions about release.

Example Situation	Potential Data Protection	Potential Redaction
Body cam video of victims of criminal sexual assault reluctant to provide statements on camera for fear of retaliation or other negative consequence.	Under section 13.82, subd. 17(b), law enforcement must protect victims in these situations.	<ul style="list-style-type: none"> • Must always redact these identities.
Body cam video of victims of domestic abuse.	If a domestic abuse victim asks not to be identified publically and law enforcement believes there is a threat to the victim’s safety, they must protect the victim’s identity. Domestic abuse victims receive mandatory protection only in situations under the Domestic Abuse Act where there is an OFP.	<ul style="list-style-type: none"> • Redacting an identity • Withholding as clearly offensive to common sensibilities • Inextricably intertwined data
Body cam video of entry into the homes of victims and witnesses.	Section 13.82, subd. 17(d) protects certain victims and witnesses. If any victim or witness asks not to be identified publically and law enforcement believes there is a threat to the victim’s safety, they must protect the victim’s identity.	<ul style="list-style-type: none"> • Redacting an identity • Withholding as clearly offensive to common sensibilities • Inextricably intertwined data
Body cam video of parent discussing concerns about a child’s behavior and wishes to explore options.	Section 260B.171, subd. 5 protects delinquent or alleged delinquent juveniles. Must also protect a parent’s identity if it identifies the juvenile.	<ul style="list-style-type: none"> • Redacting an identity • Inextricably intertwined data