

Lawful Collection, Storage, Use and Release of Data on Individuals

*Before a government entity **collects or stores** data about individuals, it must ask:*

1. Is the collection or storage necessary for the administration and management of a program specifically authorized by the Legislature or local governing body, or mandated by the federal government and has the relevant enabling authority been identified?
 - **No** – *The data may not be collected or stored.*
 - **Yes** – *Proceed to the next question.*
2. Is the government entity asking an individual to supply private or confidential data about her/himself?
 - **No** – *The data may be collected without a Tennesen warning notice.*
 - **Yes** – *A Tennesen warning notice must be given before the data are collected.* Note: if no Tennesen notice is provided, the data may not be collected, stored, used or disseminated.

*Before a government entity **uses** data about individuals, it must ask:*

1. Are the data classified as private or confidential data on individuals?
 - **No** – *The data are public and may be used.*
 - **Yes** – *Proceed to the next question.*
2. Is the use necessary for the administration and management of a program specifically authorized by the Legislature or local governing body, or mandated by the federal government?
 - **No** – *The data may not be used.*
 - **Yes** – *Proceed to the next question.*
3. Was a Tennesen warning notice provided that informed the data subject of how the data would be used and his/her rights in conformity with Minnesota Statutes, section 13.04, subdivision 2?
 - **Yes** – *Data may be used as described in the notice.*
 - **No** – *If the data are **confidential**, the data may not be used. If the data are **private**, an entity must have the data subject's **informed consent** before using the data (Minnesota Statutes section 13.05, subd. 4 and Minnesota Rules 1205.1400.)*

*Before a government entity **releases** data about individuals, it must ask:*

1. Are the data classified as private or confidential data on individuals?
 - **No** – *The data are public and may be released.*
 - **Yes** – *Proceed to the next question.*
2. Is the request for data coming from the data subject?
 - **No** – *Proceed to the next question.*
 - **Yes** – *If the data are **confidential**, the requester has a right to know the entity maintains confidential data about the individual, but does not get access.*

*If the data are **private**, the data subject gets access provided he/she provides sufficient documentation proving his/her identity (i.e. photo id).*
3. Is there a state or federal law or court order that allows the requester access to the data?
 - **No** – *The data may not be released.*
 - **Yes** – *Data may be released according to the legislative authority or court order.*