

Surveys and questionnaires – are they public or not public?

There are numerous instances in which the presumption that all government data are public (Minnesota Statutes, Chapter 13) conflicts with typical practice or with the public's general experiences and expectations.

Survey and questionnaire response data are among the most common instances of this conflict. Many people, including seasoned data practices practitioners, are surprised to learn that responses to surveys, questionnaires, and similar instruments are not protected.

In 2008, the Department of Agriculture received approval to temporarily protect the identity of farmers and landowners voluntarily participating in studies of farming practices. A legislative proposal (Senate File 863/House File 1083) would permanently protect these data as not public. Agriculture officials testified that in order to secure and maintain the cooperation of farmers and landowners for these critical studies, their identities must be protected. The agency also noted that study participants are much more candid with researchers when they understand that their identities and the location of their land are protected. Survey and research professionals have voiced similar views.

Government officials considering a private consultant or contractor for a survey should also be wary of claims that they can ensure anonymity of the subjects or protection of the data. Simply stated, a private consultant cannot promise any more protection or anonymity than the government is able to provide.

The classification of data in an individual's response to a survey will depend on who is being surveyed and the content of his/her response. For instance, survey response data of government employees may be private personnel data, survey response data of county social service clients may be private welfare data, and survey response data of students may be private educational data. A city's survey of its residents is likely to be public under Chapter 13's general presumption. Because this is such a complex area, the Information Policy Analysis Division developed [a resource](#) to assist those wishing to conduct surveys. For more information, see *From the IPAD Toolbox*.



Inside this issue:

Legislative session update	2
Law enforcement data webcast	2
Opinion highlights	3
IPAD's next workshop	4
From the IPAD toolbox	4
"Almanac at the Capitol"	4
Current temporary classifications	4



Minnesota legislative session continues

As of the posting of this newsletter, the Minnesota Senate and House of Representatives are each working on a version of a data practices omnibus bill ([Senate File 863/House File 1083](#)).

Provisions in both Senate File 863 and House File 1083

- Changes to personnel data
- Government entity's ability to share not public data with its insurance carrier
- Protects security features of building plans maintained by the Department of Administration as not public
- Protects citizen-complainant identities at the Department of Administration's Office of Grants Management
- Protects certain farm practices survey data as not public at the Department of Agriculture
- Allows the Department of Revenue to share certain taxpayer return information with law enforcement when a Revenue employee is harassed
- Parole and county probation authorities access to private firearms permit data
- Protects certain data in Forensic Lab Advisory Board investigation reports as not public
- Changes to the Department of Administration's temporary classification process
- Technical clarifications

Additional provisions in Senate File 863 that are not in House File 1083

- Protects name, addresses, driver's license number, and date of birth as not public in the Dept of Natural Resources' licensing database
- Extends effective date of business screening service provisions (Minnesota Statutes, section 332.70) to July 1, 2010

Additional provisions in House File 1083 that are not in Senate File 863

- Protects all data in the Department of Natural Resources' licensing database as not public, except name, address, and type of license are public and individuals can request that the data be protected
- Specific amendments to business screening services provisions
- Protects certain financial, business, or proprietary data connected to investments at the University of Minnesota as not public and lists certain data related to the investments that are public
- Protects certain donor gift data maintained by the Regional Parks Foundation of the Twin Cities as not public
- Allows the Minnesota Sex Offender Program access to private data in the Statewide Supervision System for specific purposes and limits access to certain program employees
- Amends the Department of Human Services licensing requirements

IPAD offers law enforcement data webcast

Learn more about law enforcement data in Minnesota during an IPAD webcast, noon to 1:30 pm, June 24, 2009. IPAD director Laurie Beyer-Kropuenske will moderate a conversation about these important issues and will be joined by Assistant Anoka County Attorney Tony Palumbo and Assistant Sherburne County Attorney Todd Schoffelman.



For more information and to register, visit www.ipad.state.mn.us.

Opinion highlights

The following are highlights of recent advisory opinions by the Commissioner of Administration. All opinions are available on IPAD's website www.ipad.state.mn.us.

09-002. Because of a law enacted during the 2008 Minnesota Legislative Session, a city asked the Commissioner to re-examine the conclusion she reached in a previous advisory opinion the city requested that dealt with electric utility disconnection data. In Advisory Opinion 08-022, the Commissioner opined that when a non-government electric utility provides certain disconnection data to the city pursuant to the city's ordinance, the data are public. The recently-enacted provision (Minnesota Statutes, section 216B.0976) requires certain utilities, upon request by a city during the cold weather months, to provide the address of a disconnected property and the date of disconnection. These data are not public under subdivision 2 of section 216B.0976. The Commissioner noted that the data are public under one statutory provision and not public under the other provision. She also discussed that the language in section 216B.0976 is more specific and was enacted more recently. For these reasons, the Commissioner opined that the city should treat property addresses and reason for disconnection as not public when those data are reported to the city between October 15 and April 15.

09-003. A non-government entity that provides legal representation for certain Minnesota government entities asked whether it was required to provide data in response to a data practices request. The Commissioner discussed that pursuant to Minnesota Statutes, section 13.05, subdivision 11, when a non-government entity enters into an agreement/arrangement/contract to perform work on behalf of a government entity, data it creates, collects, maintains related to performing the work are subject to the requirements of Chapter 13. Here, because the requestor asked for data relating to all the entity's contracts with government as opposed to data relating to a specific contract, the Commissioner concluded Chapter 13 does not require the entity to provide the requested data.

09-005. An individual asked whether a city properly withheld the names and addresses of all dog license registrants as security information pursuant to Minnesota Statutes, section 13.37, and also whether the city's fee for a copy of the public dog license data was appropriate. The Commissioner opined, as she has previously, that the Legislature did not intend for government entities to use the blanket approach when using the security information provision to protect otherwise public data. Therefore, the data are public. The Commissioner noted that victims of domestic violence, sexual assault, or stalking, may apply to participate in the Safe at Home Program, Minnesota Statutes, Chapter 5B, and receive an assigned address to use in place of their actual address. Regarding the copy charge, the Commissioner was unable to make a determination. Shortly after the opinion was issued, the city requested a temporary classification. The Commissioner will make a decision on the city's request by May 7, 2009.



Next workshop on information access policies is June 5 in St. Paul

IPAD is again offering a practical, interactive workshop to assist government entities with their policies regarding requests for government information on Friday, June 5 in St. Paul.

Workshop participants will have the opportunity to create or improve these policies that are legally required by Minnesota Statutes, Chapter 13.

For more information and to register, visit www.ipad.state.mn.us.

Data practices featured on tpt's 'Almanac at the Capitol'

Commentator and cartoonist David Gillette of tpt's "Almanac at the Capitol" features data practices in one of his [two-minute essays](#).

[Home](#)

How It Happens - Data Practices

04/15/09



© 2009 Twin Cities Public Television

David takes us below the surface of state government to discover the outcome of all those speeches, committee hearings and floor sessions - public information.

From the IPAD toolbox



Are you a government entity thinking about conducting a survey or a member of the public asking for survey response data? Generally, survey response data are public but there are some exceptions. For more information, take a look at IPAD's [new resource](#).

Current temporary classifications of data

"Temporary classifications" of government data are protected in the same way as other not public data for the limited time period of the classification. Each classification has an expiration date. If a government entity has the data, it must treat the data as not public until the classification expires, or until the Legislature acts on the classification.

The temporary classifications of government data currently in effect are located at www.ipad.state.mn.us/tempclasscurrent.html.

Minnesota Department of Administration, Information Policy Analysis Division

201 Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155

Phone 651.296.6733 • Fax 651.205.4219 • info.ipad@state.mn.us • www.ipad.state.mn.us



Staff: Laurie Beyer-Kropuenske, *Director*;
Stacie Christensen; Janet Hey; Taya Moxley-
Goldsmith; Rebecca Robison (intern); Catherine Scott

