

# *Houston County*



## Data Practice Policy & Compliance Manual

Public Access to Government Data  
And  
Rights of Subjects of Data

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# DATA PRACTICES POLICY AND COMPLIANCE MANUAL

## *PUBLIC ACCESS to GOVERNMENT DATA and RIGHTS of DATA SUBJECTS*

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### **9.29.0 INTRODUCTION**

#### **9.29.0-1 PURPOSE**

The Minnesota Government Data Practices Act, Minn. Stat. Ch 13 (hereinafter “MGDPA”) sets forth requirements relating to the right of the public to access government data and the rights of individuals who are the subjects of government data. The MGDPA requires each of the over 3000 state and local government entities in Minnesota to establish data practices, policies and procedures. Houston County (hereinafter “County”) has adopted this policy to comply with the MGDPA.

The specific procedures for Houston County may necessarily vary by department dependent on departmental function and other applicable statutes.

This policy provides direction to County employees in complying with those portions of the MGDPA that relate to public access to government data and to the rights of subjects of data.

*\*Although the MGDPA establishes other requirements, they are not discussed here. For further information on these other requirements, see Chapter 13 and Minnesota Rules Chapter 1205 Data Practices.*

#### **9.29.0-2 POLICY ORGANIZATION**

This policy is comprised of 4 sections and 4 exhibits. Sections 9.29.2 and 9.29.3 are designed to provide guidance and training to County employees; while, the exhibits are intended to apprise members of the public and subjects of data of their rights as well as the required procedures when making a data request and challenging the accuracy of data the County maintains on them. *The exhibits are designed to be posted on the County website, or otherwise made available to members of the public along with the County’s fee schedule.*

**Summary of MGDPA** provides a *summary of key elements* of the MGDPA which are relevant to this policy. Information in this section may be used by County staff, and may be provided to the public and to individual data subjects.

**Duties of the Responsible Authority & Public Access to Government Data** describes what is required of Houston County in order to comply with requirements relating to *the right of the public to access government data*. This section is intended to guide the **Responsible Authority**

(s) in establishing the specific procedures required of Houston County by the MGDPA. The County may provide any of the documents in this section to the public in order to achieve compliance with the public notice requirements of Minn. Stat. § 13.03, subd. 2(b), “*The Responsible Authority shall prepare public access procedures in written form and update them no later than August 1 of each year as necessary to reflect any changes in personnel or circumstances that might affect public access to government data. The Responsible Authority shall make copies of the written public access procedures easily available to the public by distributing free copies of the procedures to the public or by posting a copy of the procedures in a conspicuous place within the government entity that is easily accessible to the public.*”

**Duties of the Responsible Authority & the Rights of Subjects of Government Data** describes what is required of the County in order to comply with requirements relating to *the rights of subjects of data*. This section is intended to guide the **Responsible Authority** (s) in establishing the specific procedures required of the County by the MGDPA. The County may provide any of the documents in this section to a data subject in order to comply with the requirement that the subject be informed of his/her rights and how to exercise those rights with the County. (Minn. Stat. section 13.05, subd.8, **Publication of access procedures**. “*The Responsible Authority shall prepare a public document setting forth in writing the rights of the data subject pursuant to section 13.04 and the specific procedures in effect in the government entity for access by the data subject to public or private data on individuals.*”

**The last two sections of this document are intended to notify persons of their rights regarding government data.**

**Exhibit 1, *The Right of the Public to Inspect and Copy Data Houston County***

- is *addressed to members of the public* to guide them in exercising their right to access government data. Houston County may provide this information to the public in order to comply with the public notice requirements of Minn. Stat. § 13.03, subd. 2(b).

**Exhibit 4, *The Rights of Individuals under the Minnesota Government Data Practices Act***

- is *addressed to the subjects of government data* to guide them in exercising their rights under the MGDPA. Houston County may provide this information to data subjects to comply with the requirements of Minn. Stat. §13.05, subd.8.

### **9.29.0-3 APPLICABILITY AND POLICY VIOLATIONS**

All employees, volunteers, interns and contractors are expected to comply with MGDPA provisions and this policy. Employees who violate this policy and related procedures may be subject to disciplinary action up to and including termination of employment following appropriate channels and applicable collective bargaining agreements.

### **9.29.0-4 DEFINITIONS**

*County* refers to Houston County as a subject to the MGDPA.

*Data*, when used in this policy, means government data, as defined in 9.29.1-2 et al.

*MGDPA* is the Minnesota Government Data Practices Act, Chapter 13 of Minnesota Statutes.

*Person* refers to any member of the public, and includes individuals, member of the media, corporations, non-government organizations, etc.

*Subject* means a data subject; an individual who is the subject of government data.

## **9.29.1 SUMMARY OF THE MGDPA**

### **9.29.1-1 MGDPA SCOPE OF COVERAGE**

The law applies to *state agencies* in Minnesota. State-level entities include the University of Minnesota and state-level offices, departments, commissions, officers, bureaus, divisions, boards, authorities, districts and agencies.

The MGDPA applies to *political subdivisions*, including counties, cities, school districts, special districts, boards, commissions, districts and authorities created by law, local ordinance or charter provision. Although townships are political subdivisions, *the MGDPA does not apply to townships*. Additionally, *the Courts and the Legislature are not subject to the MGDPA*.

*Statewide systems* are subject to the MGDPA. A statewide system is a record keeping or data administering system that is established by federal law, state statute, administrative decision or agreement, or joint powers agreement, and that is common to any combination of state agencies and/or political subdivisions.

*Community action agencies* organized pursuant to the Economic Opportunity Act of 1964 also are subject to the MGDPA.

*Persons or entities licensed or funded by, or under contract to, a government entity* are subject to the MGDPA to the extent specified in the licensing, contract or funding agreement:  
Specifically-

- **Pursuant to Minn. Stat. §13.05, subd. 6, Contracts** - if any person receives data on individuals from the County as a result of a contract with the County, the person must administer the data in a manner that is consistent with the MGDPA.
- **Pursuant to Minn. Stat. §13.05, subd. 11, Privatization (a)** - if the County enters into a contract with a private person “to perform any of its functions, the government entity shall include in the contract terms that make it clear that all of the data created, collected, received, stored, used, maintained, or disseminated by the private person in performing those functions is subject to the requirements of this chapter and that the private person must comply with those requirements as if it were” the County. [emphasis added] A contractor who fails to comply may be sued under section 13.08, civil remedies.  
**Contracts must clearly inform the contractor of these responsibilities.**

However,” This subdivision does not create a duty on the part of the private person to provide access to public data to the public if the public data are available from the government entity, except as otherwise required by the terms of the contract.”

### 9.29.1-2 CLASSIFICATION OF DATA

The MGDPA regulates how government data are “collected, created, received, maintained, or disseminated” by a covered governmental entity “regardless of physical form, storage media or conditions of use.” (Minn. Stat. §13.02 subd.7)

All County data is government data, no matter what physical form they are in, or how they are stored or used. Government data may be stored on paper forms/records/files, in electronic form, on audio or videotape, on charts, maps, etc. The County has a duty to determine the classification of the data it maintains. It is important to remember that government data are regulated at the level of the individual data item or elements of data, so that any given document, record or file may contain multiple classifications of data.

**Not Public Data** means any government data which is classified by statute, federal law, or temporary classification as **confidential**, **private**, **nonpublic**, or **protected nonpublic**. If no statute or federal law exists that classifies the data as Not Public the data are presumed to be public.

**Houston County must provide Public Data to anyone upon request, regardless of who is requesting the data or why.**

In general, government data are classified as **Data on Individuals** or **Data not on Individuals**. **Data on Individuals** are classified as either **public**, **private** or **confidential**. (The MGDPA also sets forth provisions for Data on Decedents which are addressed in this policy.)

**Data not on individuals are classified as public, nonpublic, or protected nonpublic.**

Within each of these categories, the MGDPA further establishes three data classifications. Each classification regulates how County data are handled and who is legally authorized to access data bearing that classification.

<b>Data on Individuals</b>	<b>Who has access</b>	<b>Data not on Individuals</b>
<b>Public</b>	Available to anyone for any reason	<b>Public</b>
<b>Private</b>	Available only to the data subject and to anyone authorized by the data subject or authorized by law	<b>Nonpublic</b>
<b>Confidential</b>	Not available to the public or the data subject	<b>Protected Nonpublic</b>

**9.29.1-2(A) Data on Individuals** are any data which identify an individual (a living human being) or from which an individual can be identified.

*Not Public* classifications for **Data on Individuals** are as follows:

- **Private Data** on individuals are, as a general rule, accessible only by the data subject (and, if the subject is a minor, generally, with exceptions, by the subject's parent or guardian); by County staff whose work assignments reasonably require access; by agencies and persons that are authorized by law to access the data; and by anyone with the consent of the data subject.
- **Confidential Data** on individuals are accessible only by authorized County staff who maintain the data or whose job duties reasonably require access to the data and by agencies and persons who are authorized by law to access the data.

*\*See Sections 9.29.3 detailed information about who may access private and confidential data on individuals.*

**9.29.1-2(B) Data on Decedents** are data about a deceased individual which were created or collected before the individual's death. Access to data on decedents generally is the same as access to data on individuals. Upon the death of the individual data subject, the rights of the data subject transfer to the representative of the decedent.

*Not Public classifications* for **data on decedents** are as follows:

- **Nonpublic** data on decedents are data which, before the death of the data subject, were classified as private data on individuals. Access to private data on decedents is the same as access to private data on individuals. Additionally, the personal representative of the estate may access the data if the estate is in probate or, if not in probate, the data are accessible to the surviving spouse or, if there is no surviving spouse, to the decedent's child or children. If there are no children, the decedent's parents may access the data. The MGDPA refers to the personal representative and the survivors of the decedent as the representative of the decedent.
- **Confidential** data on decedents are data, which before the death of the data subject, were classified as confidential data on individuals. Access to the data is the same as access to confidential data on individuals.

**9.29.1-2(C) Data Not on Individuals** are data that do not identify individuals. These include data about legally created persons such as business entities, as well as administrative policies and financial information maintained by Houston County. Data not on individuals also include:

- Private or confidential data which have been stripped of any data that would identify an individual;
- Data about an individual that are collected or created *after* that individual's death; and
- Summary data, which are private or confidential data which have been stripped of any data that would identify an individual, and which are used to produce statistical records or reports. (For information on requirements relating to summary data, see Minn. Stat. § 13.02, subd. 19, Sect.13.05, subd. 7; and MN Rules, part 1205.0700.)

***Not Public*** classifications for ***Data Not on Individuals*** are as follows:

- ***Nonpublic*** data not on individuals are not accessible to the public but are accessible to the data subject, if any. Although the MGDPA is silent on this point, it is reasonable to conclude that access to the data should be limited to entities or persons who have the legal authority to do so, and to County staff on a need-to-know basis. It also is reasonable to conclude that a representative of the organization which is the subject of the data may access the nonpublic data and may consent to its release.
- ***Protected Nonpublic*** data not on individuals are not available either to the public or to the subject of the data. Again, though not addressed by the MGDPA, it is reasonable to conclude that protected nonpublic data are accessible to entities or persons who are *authorized by law* to access the data, and to County staff whose work assignments reasonably require access. This data are not accessible to the data subject.

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### 9.29.1-3 MGDPA & MINNESOTA RULES CLASSIFICATION REFERENCE CHART

In addition to classifying data, the MGDPA establishes important *rights for individuals who are the subjects of government data*. Many of these rights are established at *Minn. Stat. § 13.04* and are discussed more fully in *See Sections 9.29.3 detailed information about who may access private and confidential data on individuals*.

<b>GOVERNMENT DATA</b> All data kept in any recorded form, regardless of physical form, storage media, or conditions of use MS § 13.02, SUBDIVISION 7		
<b>DATA ON INDIVIDUALS*</b>  MS § 13.04, SUBDIVISION 4	<b>DATA ON DECEDENTS</b>  MS § 13.10, SUBDIVISION 1	<b>DATA NOT ON INDIVIDUALS</b>  MS § 13.02, SUBDIVISION 4
<b>PUBLIC</b> Accessible to anyone for any Reason  MS § 13.02, SUBDIVISION 15	<b>PUBLIC</b> Accessible to anyone for any reason  MS § 13.02, SUBDIVISION 15	<b>PUBLIC</b> Accessible to anyone for any reason  MS § 13.02, SUBDIVISION 14
<b>PRIVATE</b> Accessible to the data subject; Not accessible to the public  MS § 13.02, SUBDIVISION 12	<b>PRIVATE **</b> Accessible to the representative of the decedent; Not accessible to the public  MS § 13.10, SUBDIVISION 1B	<b>NONPUBLIC</b> Accessible to the subject of the data, if any; Non accessible to the public  MS § 13.02, SUBDIVISION 9
<b>CONFIDENTIAL</b> Not accessible to the data Subject; Not accessible to the public  MS § 13.02, SUBDIVISION 3	<b>CONFIDENTIAL **</b> Not accessible to the representative of the decedent; Not accessible to the public  MS § 13.10, SUBDIVISION 1A	<b>PROTECTED NONPUBLIC</b> Not accessible to the data subject; Not accessible to the public  MS § 13.02, SUBDIVISION 13

\*Individual is defined at Minn.Stat. § 13.02, subdivision 8. Individual means a living human being **the MGDPA does not establish comparable rights for businesses and other organizations which are the subjects of Data Not on Individuals.**

\*\*Private data and Confidential Data on Decedents become public data **ten years** after the death of the data subject and 30 years after the creation of the data.

### 9.29.1-4 STATUTORY CONSEQUENCES FOR NON-COMPLIANCE CONSEQUENCES

Pursuant to section 13.08 of the MGDPA, a government entity may be sued for violating any of the Act's provisions.

Section 13.09 provides criminal penalties, and disciplinary action, including dismissal from public employment, for anyone who willfully (knowingly) violates a provision of the MGDPA.

## 9.29.1-5 DATA PRACTICES COMPLIANCE OFFICIAL AND RESPONSIBLE AUTHORITY

In the 2000 Legislative Session, the MGDPA was amended to require government entities to appoint a Data Practices Compliance Official to whom questions or concerns about data practices problems may be addressed. (Minn. Stat.13.05, Subd. 13) Additionally, the MGDPA requires that the government entity, Houston County, appoint a Responsible Authority to ensure compliance with the MGDPA. The duties of the County are assigned to its Responsible Authority are:.

Minn. Stat. § 13.02, Subd. 16, "RESPONSIBLE AUTHORITY "...means the individual designated by the... [County] as the individual responsible for the collection, use, and dissemination of any set of data on individuals, government data, or summary data, unless otherwise provided by state law. <https://www.revisor.mn.gov/statutes/?id=13.02>

See MN Rules, parts 1205.1200, DUTIES OF THE RESPONSIBLE AUTHORITY RELATING TO PUBLIC ACCOUNTABILITY and 1205.2000, subpart1, ADVISORY FORMS. <https://www.revisor.mn.gov/rules/?id=1205.2000>

Houston County has adopted the guidelines set forth in by the Minnesota Historical Society' Record Retentions Schedule. County employees shall maintain County data in accordance with this schedule. County departments should carefully review county records annually and purge documents that are no longer on the Records Retention Schedule. See, *Minnesota Historical Society Records Retention Schedule*, <http://www.mnhs.org/preserve/records/retentionsched.html>, See also, MN Rules1205.1500, Subp. 5, Treating unnecessary data.

**The Houston County Responsible Authority and Data Practice Compliance Officer is Houston County Attorney, Samuel Jandt. (Suite 2300, 306 S. Marshall St., Caledonia, MN 55921)**

**The Responsible Authority Designees for department specific data are County Department Heads. The law defines the designee as a person who is in charge of and responsible for individual files or systems containing government data. Designees help administer and implement the requirements of Chapter 13 and the Rules. Designees are responsible for receiving and complying with requests for government data, and for answering inquiries from the public concerning the provisions of Chapter 13 or the Rules.**

<u>Name</u>	<u>Title</u>	<u>Phone number</u>	<u>Location</u>
<u>Lucas Onstad</u>	<u>Assessor</u>	<u>507-725-5801</u>	<u>304 South Marshall Street, Court House, First Floor</u>
<u>Polly Heberlein</u>	<u>Auditor/Treasurer</u>	<u>507-725-5815</u>	<u>304 South Marshall Street, Court House, First Floor</u>
<u>Samuel Jandt</u>	<u>County Attorney</u>	<u>507-725-5802</u>	<u>306 South Marshall Street, Justice Center, Second Floor</u>
<u>Brian Pogodzinski</u>	<u>County Engineer</u>	<u>507-725-3925</u>	<u>1124 E. Washington Street Court House, Second Floor</u>

<u>Martin Herrick</u>	<u>Environmental Svcs</u>	<u>507-725-5800</u>	<u>304 South Marshall Street, Court House, Second Floor</u>
<u>Carol Lapham</u>	<u>Finance Director</u>	<u>507-725-5825</u>	<u>304 South Marshall Street, Court House, Second Floor</u>
<u>Tess Kruger</u>	<u>Human Resource Director</u>	<u>507-725-5822</u>	<u>304 South Marshall Street, Court House, Second Floor</u>
<u>John Pogleasa</u>	<u>Public Health/Human Services Director</u>	<u>507-725-5811</u>	<u>304 South Marshall Street, Court House, First Floor</u>
<u>Mary Betz</u>	<u>County Recorder</u>	<u>507-725-5813</u>	<u>304 South Marshall Street, Court House, First Floor</u>
<u>Brian Swedberg</u>	<u>Sheriff</u>	<u>507-725-3379</u>	<u>306 South Marshall Street, Justice Center, First Floor</u>
<u>Eric Schmitt</u>	<u>Surveyor</u>	<u>507-725-5814</u>	<u>304 South Marshall Street, Court House, Basement Level</u>
<u>Robert Thoen</u>	<u>Veteran Services</u>	<u>507-725-5805</u>	<u>611 Vista Drive, Community Services Bldg.</u>

\*Responsible Authority, Compliance Officer, and Designee list updated 9/08/2023

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### 9.29.1-6 MGDPA COMPLIANCE REFERENCE GUIDE

The MGDPA, its accompanying rules, and related statutes impose specific obligations upon Houston County to comply with the procedural requirements of the statute. The following chart summarizes these obligations.

MGDPA COMPLIANCE QUICK GUIDE			
Authority	Topic	Specific Obligation	Purpose
<b>1</b> MS § 13.03 Subd. 1 & 2  MN Rules 1205.0300	Public document Regarding access to government data	<u>Establish procedures</u> to ensure that officials respond promptly to requests for government data.  Determining fees	Facilitate access and  County accountability
<b>2</b> MS § 13.05, Subd. 8	Public document regarding data subject rights	<u>Prepare a public document</u> setting forth the rights of data subjects and procedures for subjects to access public and private data about themselves	<u>Inform</u> individuals of their rights as subjects of government data
<b>3</b> MS § 13.05, Subd. 5(1);  MN Rules 1205.1500	Data quality	Establish procedures to ensure that data kept on individuals are accurate, complete and current	Protect against the use of erroneous data in making decisions that affect individuals
<b>4</b> MS § 13.05, Subd. 5(2)	Data security	Establish procedures to ensure security safeguards for data on individuals	Protect individual privacy;  Prevent alteration of data
<b>5</b> MS § 13.05, Subd. 1;  MN Rules 1205.1500	Inventory of Records	Create and annually update an inventory of records containing data on individuals, including data collection forms	Create central repository of data classifications;  Give notice of the data maintained by entity  Take action to avoid the collection/storage of unnecessary data

<b>MGDPA COMPLIANCE QUICK GUIDE</b>			
<b>Authority</b>	<b>Topic</b>	<b>Specific Obligation</b>	<b>Purpose</b>
<b>7</b> MS § 13.05, Subd. 11	Contract provisions	When preparing contracts by which a private sector contractor performs government functions, insert provisions that clearly oblige the contractor to comply with MGDPA as if it were a government entity	Extend protection into the private sector where public sector performs government duties  Prevent government entities from concealing data in the private sector
<b>8</b> MS § 13.05, Subd. 7  MN Rules 1205.0700, Subp. 3 & 4	Summary data	Establish procedures for public access to summary data	Provide reasonable access to data for research purposes, etc. while protecting individual identities
<b>9</b> MS § 13.05, Subd. 9, 10	Dissemination of Not Public data to other governmental entities without authority	The County may not share Not Public data with another entity unless required or permitted by state statute or federal law	Assure public policy basis for dissemination of Not Public data;  Protect individual privacy
<b>10</b> MS § 138.163;  MS § 15.17, Subd. 3,4 & 5  MN Rules 1205.1500	Periodic review and disposition of records  Modification of data handling procedures	Dispose of and transfer records in accordance with proper statutory procedures  Plan process for review of data practices	Ensure proper preservation and disposal of records  Ensure periodic determination of which data are necessary to maintain
<b>11</b> MN Rules 1205.0500, subpart 3	Parental access and notice to minors	Procedures for parents to access data about their minor children	Ensure parental rights while protecting minor's interests concerning parental access
<b>12</b> MN Rules 1205.1300, Subp. 4	Authorized uses of data	Prepare lists enumerating the authorized uses of data by category	Enable administrators to know how to respond to requests for data;  Facilitate answers to questions about dissemination of data

<b>MGDPA COMPLIANCE QUICK GUIDE</b>			
<b>Authority</b>	<b>Topic</b>	<b>Specific Obligation</b>	<b>Purpose</b>
<b>13</b> MN Rules 1205.1600	Administrative appeal procedures	Subject data obligations	Sets forth timeline and content of appeal notice
<b>14</b> MN Rules 1205.1400	Informed consent	Design forms for obtaining informed consent for new release or use of private data	Ensure that contents of informed consent forms comply with legal requirements
<b>15</b> MN Rules 1205.1000	Responsible Authority	Each governmental entity must appoint a Responsible Authority	Identify the County's principal decision maker about data practices
<b>16</b> MS § 13.05, Subd. 13	Data practices compliance official	Each governmental entity must appoint a compliance official	Identify the person within the county to whom questions or data practices problems may be directed
<b>17</b> MS § 13.03, Subd. 2	Access procedures	The County must establish access procedures for public data	Data will be received and compiled in an appropriate manner and easily retrievable
<b>18</b> MN Rules 1205.1200, Subp. 2	Public notice and access	Identify the other key data practices officials in each entity's designees	Informs the public where to direct inquiries
<b>19</b> MN Rules 1205.1300, Subp. 5	Employee education	Responsible Authority must prepare procedures and train all staff regarding private and confidential data	Ensure compliance and avoid liability

## **MGDPA Resources**

- Minnesota Statutes Chapter 13 and Minnesota Rules, Chapter 1205, Rules promulgated by the Minnesota Department of Administration, may be found on the Web site of the Revisor of Statutes at: <http://www.revisor.leg.state.mn.us/revisor.html>.
- **Note the Houston County Attorney has the sole authority to provide legal advice regarding the specific provisions of the MGDPA as they relate to Houston County.**
- Opinions issued by the Commissioner of Administration, pursuant to MS § 13.072, are available on the IPAD Web site. Copies of individual opinions, an opinion summary, and an index to Commissioner's Opinions are available from IPAD upon request.  
[www.ipad.state.mn.us](http://www.ipad.state.mn.us)

## **9.29.2 DUTIES OF THE RESPONSIBLE AUTHORITY & PUBLIC**

### **ACCESS TO GOVERNMENT DATA**

#### **PUBLIC INFORMATION REQUESTS**

Minn. Stat. section 15.17, the Official Records Act, requires Houston County officers to make and maintain all records that are necessary to a full and accurate knowledge of their official activities. This requirement exists so that the public understands the actions taken by County departments and the reasons for those actions. Section 13.03, subd.1, of the MGDPA requires Houston County to keep records that contain government data in a manner that makes the data easily accessible.

The MGDPA gives every member of the public the right to see and have copies of all public data kept by the County. The MGDPA also places upon the County various obligations relating to this public right. Data requests must be made to the Responsible Authority or to the appropriate designee(s) specified in the Houston County's public document. See the section 9.29.4, as well as the "Fee Schedule" located at <http://www.co.houston.mn.us>

#### **9.29.2-1 DATA REQUESTS**

The County does reserve the right to require the requestor to provide a written request. A written request may be required in instances where the request involves a substantial amount of information, is non-routine or of a sensitive nature, or there is a question as to the classification of the data. The Agency or Department may require the use of a form designed for this purpose. *If the use of a form is required, it must be designed so that it complies with the requirements of the MGDPA, and must provide guidance to the public in using the form. See Exhibit 2.*

#### **RESPONDING TO A DATA REQUEST**

➤ **Step 1: Determine what specific data are requested.**

This may require the County to seek clarification from the requestor. Although the County may not require the requestor to provide identification, provide a reason for the request, or justify the request, the County may request identifying information from the requestor if that information is necessary to fulfill the request.

The County also must determine whether it maintains the requested data. The County is not required by the MGDPA to provide data which it does not maintain. The County also is not required to produce data in a particular form or format if the data are not

maintained in that form or format. (The County may provide data in a specific format pursuant to a data request for summary data. *See, below “What special requirements apply to requests for summary data?”*)

➤ **Step 2: Determine the classification of the data**

If Houston County maintains the requested data, the Responsible Authority must determine how the data are classified. *See section 9.29.3 for responding to Subjects of Government Data.*

➤ **Step 3: NOT PUBLIC DATA RESPONSE**

The County must inform the requestor either orally at the time of the request, or may be done in writing as soon as possible after the request is made.

When informing the requestor, the Responsible Authority (designee) must cite the specific statutory authority and, if applicable, any temporary classification of the data.

If the requestor asks for a written certification that the request has been denied, the County must provide the certification, citing the specific statutory section, temporary classification or specific provision of federal law upon which the denial was based.

-OR-

➤ **Step 3: PUBLIC DATA RESPONSE**

The County must provide the data to the requestor, regardless of who the requestor is, or the reason for requesting the data.

## **9.29.2-2 DATA REQUESTS “Q & A”**

### **WHAT KIND OF RESPONSE MUST THE COUNTY MAKE AND HOW SOON MUST IT RESPOND?**

- The County must respond to a data request appropriately and promptly. What is appropriate and prompt depends upon the scope of the request, and may vary depending upon factors such as the type and/or quantity of data requested, the clarity of the data request, and the number of staff available to respond to the request.

### **WHAT LIMITS MAY THE COUNTY PLACE UPON ACCESS TO THE REQUESTED DATA?**

- Houston County may limit access to data to reasonable times and places, i.e. during normal work hours, on certain days, at designated times and for certain types of requests, at press conferences, or at negotiated times and/or locations.

### **WHAT ARE THE COUNTY’S OBLIGATIONS IF ASKED TO EXPLAIN THE DATA PROVIDED?**

- The County must explain the meaning of the data provided if the requestor asks for an explanation. This includes explaining the meaning of technical terminology, abbreviations, words or phrases.

The explanation must be provided in an understandable way. When providing explanations for non-English speakers or for persons with hearing or vision impairments, the County *may* need to provide an appropriate interpreter.

**MAY THE COUNTY REFUSE TO PROVIDE COPIES OF PUBLIC DATA?**

- Houston County may not refuse a request for copies of public data. If copies cannot be provided at the time of request, they must be supplied as soon as reasonably possible. If copies are requested in electronic form, and the County maintains the data in electronic form, the data must be provided in electronic form.

**MAY THE COUNTY ASSESS A FEE FOR INSPECTION OF PUBLIC DATA?**

- No. A fee may not be charged for inspection of government data. This includes situations where:
  - It is necessary for the County to display computerized data on a terminal or print a copy of the requested data in order for the requestor to inspect the data;
  - A person wishes to visually inspect a paper document or data kept in any other medium that may be inspected visually; or
  - A person requests access to electronic data via her/his own computer equipment, and possibly prints copies or downloads data on her/his own equipment.

***Note: Looking is free.** (See, Fee Guidelines below. Note that Minn.Stat. § 169.09, subdivision 13 (e) and (f), which permits law enforcement entities to charge a fee for access to traffic accident reports.)*

**MAY THE COUNTY ASSESS A FEE FOR SEPARATING PUBLIC FROM NOT-PUBLIC DATA?**

- No.

**MAY THE COUNTY ASSESS A FEE FOR PROVIDING COPIES OF PUBLIC DATA?**

- Houston County requires the payment of a fee for providing copies of public data or for electronically transmitting the data. The fee may include the actual costs of searching for and retrieving the data, including the cost of employee time, and for making, certifying and compiling, and electronically transmitting the data or copies of the data. The requirement that data be kept in a manner that makes them easily accessible for convenient use may limit the County in charging for search and retrieval time. (See HC Fee Schedule at <http://www.co.houston.mn.us> )

\*Specific factors that may be considered in establishing a fee may be found at Minnesota Rules part 1205.0300.

**MAY THE COUNTY ASSESS AN ADDITIONAL FEE FOR PROVIDING COPIES OF DATA THAT HAVE COMMERCIAL VALUE?**

- In circumstances when Houston County determines the data have commercial value, the County may assess a fee in addition to the fee for providing copies of public data. The additional fee may be assessed when the County receives a request for copies of data which have commercial value, and which are a substantial or discrete portion of an entire

formula, pattern, compilation, program, device, method, technique, process, database, or system that was developed by the County with a significant expenditure of public funds.

The ability to assess an additional fee allows the County to recover the cost of developing a system to maintain and manage electronic data. The additional fee must be calculated in a reasonable manner. To do so, the County may consider the actual development costs incurred in producing the valuable data, and a reasonable estimate of how many requestors may be willing to pay the additional fee.

#### **MAY THE COUNTY PERMIT STANDING REQUESTS FOR DATA?**

- The County may not prohibit or refuse a standing request for data. It may, however, limit the duration of a standing request or, after a period of time, confirm the requestor's desire to continue the standing request. Houston County limits the duration of a standing request for data to 3 months.

#### **WHAT SPECIAL REQUIREMENTS APPLY TO REQUESTS FOR SUMMARY DATA?**

- The Responsible Authority (s) for the County must prepare summary data upon the request of any person if the request is in writing and the requestor pays for the cost to prepare the data.
- Summary data are statistical records and reports that are prepared by removing all identifiers from private or confidential data on individuals. Summary data are public.
- The Responsible Authority (s) may delegate the preparation of summary data to anyone outside of the County if (1) that person/purpose is set forth in writing, (2) the person agrees not to release any of the private or confidential data used to prepare the summary data, and (3) the County reasonably determines that the access will not compromise private or confidential data on individuals.
- Houston County may require the requestor to prepay the cost of preparing summary data.

#### **9.29.2-3 GUIDELINES FOR ESTABLISHING FEES FOR PROVIDING COPIES OF PUBLIC DATA**

Minnesota Statutes section 13.03 provides that, if a person requests copies or electronic transmittal of public government data, the Responsible Authority may require the requesting person to pay the **actual costs** of **searching for** and **retrieving** government data, including the cost of **employee time**, and for **making, certifying, compiling** and **electronically transmitting** copies of the data, or the data themselves, but may not charge for separating public data from Not Public data. For a listing of Houston County Fees see Exhibit 3.

Additional criteria for determining copy costs are set forth at Minnesota Rules, part 1204.0300, subpart 4. Commissioner's opinions, issued pursuant to Minnesota Statutes section 13.072, have established the following factors that may be used to determine how much the County may charge for providing copies of public data.

#### **REASONABLE FEES MAY INCLUDE THE COST OF:**

- Staff time required to:
  - retrieve documents (The requirement that data be kept in a manner that makes them easily accessible for convenient use may limit the County in charging for search and retrieval time)
  - sort and label documents, *if* necessary to identify the data to be copied
  - remove staples, paper clips
  - take documents to copier for copying
  - copy documents
- Materials (paper, copier ink, staples, diskettes, magnetic tapes, video or audio cassettes, etc.)
- Special costs associated with making copies from computerized data, such as writing or modifying a computer program to format data (keeping in mind that computerized data must be easily accessible for convenient use)
- Mailing costs
- Vehicle costs directly involved in transporting data to the appropriate facility when necessary to provide copies (for example, when the County is unable to provide copying services for photographs, oversize documents, videos, etc.)

#### **FEES MAY NOT INCLUDE THE COST OF:**

- Purchase of copier
- Maintenance of copier
- Normal operating expenses of computer
- Staff time required to:
  - **Separate public from Not Public data**
  - Open a data request that was mailed
  - Sort, label or review data, *if not* necessary to identify the data to be copied
  - Return documents to storage
  - Provide information about the data to the requester (i.e., explain content and meaning of data)
- Administrative costs that are not related to copying
- Records storage
- Sales tax
- The entire cost of operating a computer for a measured unit of time, when fulfilling a request for copies was the only task performed during that unit of time.

### **9.29.3 DUTIES OF THE RESPONSIBLE AUTHORITY &**

#### **THE RIGHTS OF SUBJECTS OF GOVERNMENT DATA**

The MGDPA establishes specific rights for *individuals* who are the subjects of government data, and establishes controls on how Houston County collects, stores, uses and releases data about individuals. Note that Minn. Stat. § 13.05, subd.1, specifically requires the County to “prepare a

public document containing the authority's name, title and address, and a description of each category of record, file, or process relating to private or confidential data on individuals maintained by the authority's government entity” as well as the “forms used to collect private and confidential data shall be included in the public document.” *Note the County is not required to prepare a similar public document for data not on individuals.*

Minn. Stat.13.05, subd. 5, further requires, “the Responsible Authority shall (1) establish procedures to assure that all data on individuals is accurate, complete, and current for the purposes for which it was collected; and (2) establish appropriate security safeguards for all records containing data on individuals.”

Individual data subjects have the right to:

- Be given a notice (Tennessen Warning) when either private or confidential data about the subject are collected from the subject;
- Know whether Houston County maintains any data about the subject and how those data are classified;
- Inspect, at no charge, all public and private data about the subject;
- Have the content and meaning of public and private data explained to the subject;
- Have copies of public and private data about the subject at actual and reasonable cost;
- Have private or confidential data about the subject collected, stored, used or disclosed only in ways that are authorized by law and that are stated in the Tennessen Warning Notice; or in ways to which the subject has consented via an informed consent;
- Not to have private or confidential data about the subject disclosed to the public unless authorized by law;
- Consent to the release of private data to anyone; and
- Be informed of these rights and how to exercise them within the County.

These rights allow the data subject to:

- Decide whether to provide the data being requested;
- See what information the County maintains about the subject;
- Determine whether the information maintained is accurate, complete and current and what impact the data may have (or have had) on decisions the County has made; and
- Prevent inaccurate and/or incomplete data from creating problems for the individual.

To actualize these rights, the MGDPA requires that the County and the data subject each take certain actions. The following section describes these actions by discussing four points at which they intersect:

- When the data are collected;
- When the data are used or released by the County;
- When the individual exercises the rights to access data about herself or himself; and
- When the data subject challenges the accuracy and/or completeness of the data.

### 9.29.3-1 WHO MAY EXERCISE THE RIGHTS OF THE INDIVIDUAL?

Minnesota Rules, part 1205.0200, subpart 8, defines an individual as a living human being. Pursuant to section 13.02, subdivision 8, of the MGDPA, every individual is presumed competent to exercise all of the rights established by the MGDPA.

In the case of *individuals who are under the age of eighteen*, the MGDPA definition of “individual” includes a parent or guardian, or someone who is acting as a parent or guardian in the absence of a parent or guardian. This means that a minor is presumed to be competent to exercise her/his rights under the MGDPA and so are her/his parent(s) or guardian(s).

Houston County must presume that a parent may exercise the rights of the minor unless the Responsible Authority is provided with evidence of a court order specifically directing otherwise.

In some cases, a minor may have a legally appointed guardian who will be able to provide proof of his/her appointment. In other instances, someone may be acting as a parent or guardian of the minor because the parent or guardian is absent. In that case, the County must establish, based on knowledge of the particular situation, whether the person may exercise the rights of the minor.

If an *individual has been adjudicated legally incompetent*, the MGDPA permits the individual’s legally appointed guardian to exercise that individual’s rights. A guardian wishing to exercise these rights must provide proof of legal guardianship in order to do so.

### 9.293-2 DATA COLLECTION Q & A

#### WHAT CONTROLS ARE PLACED ON THE COLLECTION AND STORAGE OF DATA ON INDIVIDUALS?

- Houston County may not collect or store any data on individuals without proper legal authority to do so. Therefore, the County may collect and store **public**, **private** and/or **confidential** data on individuals only if necessary to administer or manage a program that is authorized by federal or state law or local ordinance.

Note-this limitation on use and dissemination does not apply to public data on individuals because public data may be used or disseminated to anyone for any purpose.

#### WHAT ACTIONS MUST THE COUNTY TAKE BEFORE COLLECTING AND STORING DATA ON INDIVIDUALS?

- Houston County must identify its specific legal authority(s) for collecting and storing public, private or confidential data on individuals. It must also determine what types of data on individuals it collects or stores and how those data are classified.
- The County also must identify its specific legal authority(s) for **using** and **disseminating** **private** and **confidential** data on individuals. These determinations are critical to complying with the Tennessee Warning Notice requirements, and providing data subjects with other rights, as discussed below. The determinations also provide information that must be included in the public document required by Minnesota Statutes section 13.05, subdivision 1.

### **WHAT IS A TENNESSEN WARNING NOTICE?**

- Whenever the County asks an individual to provide *private* or *confidential* data about her or himself, the County must give that individual a data privacy notice – sometimes called a Tennessean Warning.

### **WHEN MUST A TENNESSEN WARNING NOTICE BE GIVEN?**

- The Tennessean Warning Notice is given at the point of data collection. The notice must be given whenever:
  - Houston County *requests* data;
  - The data are requested from an *individual*;
  - The data requested are *private* or *confidential*; and
  - The data are *about the individual* from whom it is requested.

All four of these conditions must be present before a Tennessean Warning Notice is required.

### **WHAT MUST BE INCLUDED IN THE NOTICE?**

- The Tennessean Warning Notice must inform the individual of:
  - The purpose and intended use of the data;
  - Whether the individual may refuse or is legally required to supply the data;
  - Any consequences known to the County at the time when the notice is given to the individual of either supplying or refusing to supply the data; and
  - The identity of other persons or entities that are authorized by law to receive the data. This notice must specifically identify recipients that are known to the County at the time the notice is given.

### **WHEN IS A TENNESSEN WARNING NOTICE *NOT* REQUIRED?**

- The notice does not have to be given by law enforcement officers who are investigating a crime.
- The notice does not have to be given to the data subject when:
  - the data subject is not an individual;
  - the subject offers information that has not been requested by the County;
  - the information requested from the subject is about someone else;
  - the County requests or receives information about the subject from someone else; or
  - the information requested from the subject is public data about that subject.

### **HOW DOES THE COUNTY DECIDE WHAT TO INCLUDE IN A TENNESSEN WARNING NOTICE?**

- Each notice must be “tailored” to the requirements of the specific program or data collection event for which it is being prepared. Within each department, it is likely that more than one notice will be needed.
- Preparation of a Tennessean Warning Notice should be done in consultation with the Compliance Official, the Houston County Attorney.

#### WHAT ARE SOME PRACTICAL SUGGESTIONS FOR DRAFTING A TENNESSEN WARNING NOTICE?

- In choosing words and phrasing for the Tennesen Warning Notice, it is hard to overemphasize the importance of using language that most people easily understand. The goal is to allow the data subject to make a meaningful decision to supply – or not supply – the information requested. Assuming the notice is complete and accurate, that choice can be meaningful only if the subject clearly understands what the County communicates in the notice.
- Communicating the contents of the notice may require preparation of the notice in more than one language, or it may require the provision of an interpreter. The County should ensure that the subject has the opportunity to question anything in the notice and receive a clear explanation.

#### DOES A TENNESSEN WARNING NOTICE HAVE TO BE GIVEN IN WRITING?

- The law does not require that the notice be given in writing. For practical and legal purposes, it is best to give the notice in writing (or in another recorded format). Although there is no law that requires an individual to sign an acknowledgment that s/he has received the notice, the County representative may ask the data subject to sign and date a written notice, in which case a copy of a written notice should be given to the data subject.
- When information is collected over the phone, the notice should be provided orally. The employee should record such details as whether the notice was given, the date given, and the identity of the person giving the notice. If given orally, the subject also should be given the notice in writing as soon as practicable.

#### WHAT AUTHORITY DOES THE COUNTY HAVE WHEN IT HAS GIVEN THE NOTICE?

- Once the proper notice has been given, the County may lawfully collect, store, use and disseminate the data, as described in the notice.

#### WHAT ARE THE CONSEQUENCES OF *NOT GIVING* THE NOTICE?

- Data on individuals cannot legally be collected or stored if a proper Tennesen Warning Notice was not given.  
\*The Commissioner of Administration has issued numerous advisory opinions on this point. See in particular Opinions 95-028, 95-035, and 98-001. [http://www.the County.state.mn.us/the County\\_commissioner.html](http://www.the County.state.mn.us/the County_commissioner.html)

#### DOES THIS MEAN THAT THE DATA *NEVER* CAN BE STORED IF A TENNESSEN WARNING NOTICE WAS NOT GIVEN?

- Not necessarily. **Private** or **Confidential** data collected before August 1, 1975 (the effective date of the Tennesen Warning Notice requirement), may be stored for the reasons the data were collected. These data also may be stored for reasons of public health, safety or welfare, if the County obtains the approval of the Commissioner of Administration.

### 9.29.3-3 SUBJECT DATA USE AND DISSEMINATION Q & A

#### WHAT ACTION MUST THE COUNTY TAKE BEFORE USING OR RELEASING PRIVATE OR CONFIDENTIAL DATA ON INDIVIDUALS?

- Houston County must identify its specific legal authority(s) for using and disseminating *private* and *confidential* data on individuals.

#### WHAT AUTHORITY DOES THE COUNTY HAVE AFTER GIVING A PROPER TENNESSEN WARNING NOTICE?

- Once the notice is given, the County may lawfully use and release *private* and *confidential* data on individuals, as described in the notice, without liability.

#### CAN THE COUNTY USE OR RELEASE PRIVATE OR CONFIDENTIAL DATA IF IT *HAS NOT GIVEN* A PROPER NOTICE?

- As a general rule, *private* and *confidential* data on individuals cannot legally be used or disseminated if a proper Tennessean Warning Notice was not given. The Commissioner of Administration has issued numerous advisory opinions on this point. See in particular Opinions 95-028, 95-035, and 98-001.  
<http://www.ipad.state.mn.us/opinions/overview.html>

#### DOES THIS MEAN THAT THE DATA NEVER CAN BE STORED, USED OR RELEASED IF A TENNESSEN WARNING NOTICE WAS NOT GIVEN?

- Not necessarily. If Houston County needs to use or release stored data in a way or for a purpose that was not included in the Tennessean Warning Notice, it may do so in one of these ways:
  - **Informed Consent:** The County may seek the data subject's informed consent to use or release the data. Obtaining the individual's informed consent is the primary method to remedy a situation where a complete or proper Tennessean Warning Notice has not been given. *See the document, MODEL INFORMED CONSENT FOR THE RELEASE OF GOVERNMENT DATA, included in this section.*
  - **Special Circumstances:** When it is not possible or practical to obtain the consent of the data subject(s), the County may seek the approval of the Commissioner of the Department of Administration to use or release the data in a way or for a purpose that was not included in the Tennessean Warning Notice. For example, the County might seek approval to use the data in a new way if consents would be required from hundreds or thousands of people, or if the data subject(s) is/are not able to give informed consent.
  - **Old Data:** Private or confidential data collected before August 1, 1975 (the effective date of the Tennessean Warning Notice requirement), may be used and released for the reasons the data were collected. These data also may be used or released for reasons of public health, safety or welfare, if the County obtains the approval of the Commissioner of Administration.
  - **Subsequent Law:** If a federal, state or local law is passed after the notice has been given, and if that law requires or permits the use or release of the data in a way that was *not* included in the Tennessean Warning Notice, then the data may be used or

released as permitted or required by the new law. The County also must revise the notice to reflect the requirements of the new law.

#### **9.29.3-4 DATA SUBJECT'S RIGHT TO ACCESS DATA**

Sections 13.04 of the MGDPA provide specific rights to individuals who are the subjects of government data the right to access data about himself or herself.

**THE DATA SUBJECT HAS THE RIGHT TO ASK AND BE INFORMED WHETHER HOUSTON COUNTY MAINTAINS DATA ABOUT HER/HIM, AND WHETHER THOSE DATA ARE CLASSIFIED AS PUBLIC, PRIVATE OR CONFIDENTIAL.**

- To exercise this right, the subject must make a request to the Responsible Authority or designee. Houston County reserves the right to require the requestor to provide a written request.

**HOUSTON COUNTY REQUIRES THE INDIVIDUAL TO PROVIDE IDENTIFICATION FOR ALL DATA REQUESTS THAT INCLUDE NOT PUBLIC DATA.**

- Criteria for deciding whether to require written data requests, or the use of a form, include the frequency of requests, the magnitude of a request or requests, and the sensitivity of data requested.
- Departments requiring the use of a form must design the form in a manner that it complies with the requirements described in this section, and must establish how it will provide guidance to the data subjects in using the form.
- The County must respond to requests immediately, if possible, or otherwise within ten working days. Response includes informing the individual that s/he is the subject of data maintained by that entity and how those data are classified. It is important to note that, even though individuals cannot access confidential data about themselves, they do have the right to know whether confidential data are maintained by the County.

**THE DATA SUBJECT HAS THE RIGHT TO SEE ALL PUBLIC AND PRIVATE DATA ABOUT HER/HIM.**

- To exercise this right, the subject must make a request to the Responsible Authority (s), or the appropriate designee, as specified by the County. The County may require that the request be in writing, and require the use of a form for this purpose as discussed above.
- Houston County requires the individual to provide identification in order to confirm that s/he is the subject of the data, and requires staff to be present at inspection in order to physically protect the data.
- The County must permit the subject view the data immediately, if possible, or within ten business days of receiving the request, excluding Saturdays, Sundays and legal holidays. Inspection times and locations may be reasonably limited.

**IF THE SUBJECT HAS REQUESTED DATA THAT ARE NOT ACCESSIBLE TO HIM/HER, THE COUNTY MUST INFORM THE INDIVIDUAL OF THIS FACT AT THE TIME OF THE REQUEST, AND MUST CITE THE SPECIFIC SECTION OF STATE OR FEDERAL LAW THAT GIVES THE COUNTY THE AUTHORITY TO WITHHOLD THE DATA FROM THE SUBJECT.**

- The data subject is entitled to see all public and private data which Houston County maintains about him or her, but is not entitled to gain access to private or confidential data about other people which may appear in the records or files. Houston County is required to determine what information relates to which person so that it may lawfully comply with requests for access to the data. The County cannot refuse to give a data subject access to private or public data about her/him just because Not Public data about other people are maintained in the record or file.
- When an individual data subject requests data that include Not Public data about other individuals, **the County must redact from the requested data all private and confidential data about other individuals.**
- After the subject has reviewed data about her/himself, Houston County is not required to show the data to the subject for six months unless:
  - The County collects or creates more data about the subject before six months have passed. If more data have been collected before the passage of six months, the subject has the right to inspect the data s/he originally viewed, as well as the newly-collected or created data; or
  - The data subject has challenged the accuracy and/or completeness of the data, or is appealing the results of such a challenge, as described below.

**UNDER CERTAIN CIRCUMSTANCES, DATA ABOUT A MINOR DATA SUBJECT MAY BE WITHHELD FROM A PARENT OR GUARDIAN.**

- A minor has the right to request that the County withhold *private* data about her/him from the parent or guardian. The County will require that the request be in writing. A written request must include the reasons for withholding the data from the parents and must be signed by the minor subject.
- Upon receipt of the request, the Responsible Authority must determine whether honoring the request is in the best interests of the minor. In making this decision, the Responsible Authority (s) must consider, at a minimum:
  - Whether the minor is old and mature enough to explain the reasons for the request and to understand the consequences of making the request;
  - Whether there is a reason to believe that the minor's reasons for denying access to the parent(s) are reasonably accurate; and
  - Whether the nature of the data is such that disclosing the data to the parents could lead to physical or emotional harm to the minor.

If the data concern medical, dental or other health services provided pursuant to Minn. Stat. sections 144.341 to 144.347, and the data meet, at minimum, all of the above criteria, the data may be released to the parent only if failure to do so would seriously jeopardize the health of the minor subject.

**HAS THE RIGHT TO BE INFORMED OF THE CONTENT AND MEANING OF PUBLIC AND PRIVATE DATA ABOUT HER/HIMSELF UPON REQUEST.**

- Upon the request of the data subject, the County must explain the content and meaning of the data. This includes explaining the meaning of technical terminology, abbreviations, or words or phrases.
- The explanation must be provided in a way the subject understands, including the use of another language, an interpreter, or other means. The County must clearly inform the subject how to exercise this right.

**THE SUBJECT HAS THE RIGHT TO HAVE COPIES OF THE COUNTY MAY NOT CHARGE A FEE FOR LETTING THE SUBJECT SEE DATA ABOUT HER/HIM.**

- Looking is free. Even if the County is required to produce a copy in order to permit the subject to view the data, it cannot assess a fee for doing so.

**THE SUBJECT ALL PUBLIC AND PRIVATE DATA ABOUT HER/HIM.**

- To exercise this right, the subject must make a request to the Responsible Authority (s), or to the appropriate designee, as specified by the County.
- Generally, the County will not require data requests to be in writing, however, Houston County does reserve the right to require the requestor to provide a written request. A written request may be required in instances where the request involves a substantial amount of information, is non-routine or of a sensitive nature, or there is a question as to the classification of the data. The request may require the use of a form designed for this purpose.
- Houston County requires the individual to provide identification for all data requests that include not public data.
- The County must provide the requested copies of the data immediately, if possible, or within ten working days of receiving the request.
- If the subject has requested copies of data that are not accessible to him/her, the County must inform the individual of this fact at the time of the request, and must cite the specific section of state or federal law that gives the County the authority to withhold the data from the subject.
- The data subject is entitled to have copies of all public and private data which the County maintains about him or her, but is not entitled to access or copy private data about other people which may appear in the records or files. Houston County is required to determine what information relates to which person so that it may lawfully comply with requests for copies of the data. The County cannot refuse to give a data subject copies of private or public data about her/him just because private data about other people are maintained in the record or file.

**MAY THE COUNTY CHARGE A FEE FOR PROVIDING A DATA SUBJECT WITH COPIES OF PUBLIC AND/OR PRIVATE DATA ABOUT HER/HIMSELF?**

- The County may charge only the actual and reasonable cost of making, certifying, and compiling the copies. In general, postage will be charged; however, the fee may be waived at the County's discretion.

**9.29.3-5 DATA SUBJECT'S RIGHT TO CHALLENGE THE ACCURACY AND/OR COMPLETENESS OF PUBLIC AND PRIVATE DATA**

**THE DATA SUBJECT HAS THE RIGHT TO CHALLENGE THE ACCURACY AND/OR COMPLETENESS OF PUBLIC AND PRIVATE DATA ABOUT HER/HIMSELF.**

- If a data subject believes that public or private data about him/her are inaccurate and/or incomplete, s/he has the right to file a data challenge with the County.
- The subject may challenge only accuracy and completeness of data. The Rules of the Department of Administration provide these definitions:
  - ***Accurate* means the data are reasonably correct and free from error.**
  - ***Complete* means that the data describe all of the subject's transactions with the County in a reasonable way.**
- Data may be inaccurate or incomplete because a wrong word, name, or phrase was used; because the data give a false impression about the subject; because certain information is not in the record; because certain information in the record should not be there; or for other reasons.
- To challenge the accuracy and/or completeness of data, the data subject must communicate in written form to the Responsible Authority (s) for the County that the data subject is challenging the accuracy and/or completeness of data Houston County maintains about her/him. Written form includes communication via letter, e-mail message, or fax.
- The written communication must identify the specific data being challenged; describe why or how the data are inaccurate or incomplete; and state what the subject wants the County to do to make the data accurate or complete, i.e. add, alter or delete data.
- Upon receipt of the challenge notice, the Responsible Authority, or someone within the County designated by the Responsible Authority, must review the notice and the challenged data promptly. Although it is not required, appointing a disinterested person to review the challenge often enables a more expeditious resolution of the dispute.
- Within 30 business days, the Responsible Authority must determine if the data are inaccurate or incomplete. The Responsible Authority may agree with all, part, or none of the data challenge, and must notify the subject of the determination about the challenge.

- If the Responsible Authority agrees that challenged data are inaccurate and/or incomplete, the County must make the changes requested and try to notify anyone who has received the data in the past, including anyone named by the subject.
- If the Responsible Authority does not agree that the challenged data are inaccurate and/or incomplete, the County must notify the subject, who then has the right to appeal the County's determination to the Commissioner of the Minnesota Department of Administration

**THE DATA SUBJECT HAS THE RIGHT TO INCLUDE A STATEMENT OF DISAGREEMENT WITH DISPUTED DATA.**

- If Houston County determines that challenged data are accurate and/or complete, and the data subject disagrees with that determination, the subject has the right to submit a written statement of disagreement to the Responsible Authority.
- The form of the statement of disagreement is of the subject's choosing, and must be included with the disputed data whenever the disputed data are accessed or released.

**IF THE COUNTY DETERMINES THAT CHALLENGED DATA ARE ACCURATE AND/OR COMPLETE, AND THE DATA SUBJECT DISAGREES WITH THAT DETERMINATION, THE SUBJECT HAS THE RIGHT TO APPEAL THE COUNTY'S DETERMINATION TO THE COMMISSIONER OF ADMINISTRATION.**

- The subject has the right to take this step *only* after both the subject and the County have properly completed all the steps in the data challenge process. The subject may appeal only the County's determination about the accuracy and/or completeness of data.
- If Houston County has given the data subject written notice of the right to appeal its determination, the subject must exercise the right to appeal within 60 calendar days. If the County has not given the subject written notice of this right, the subject has 180 days within which to file an appeal.
- The requirements for filing an appeal are set out at Minnesota Rules, part 1205.1600, and in the document, CHALLENGING THE ACCURACY AND/OR COMPLETENESS OF DATA THAT GOVERNMENT ENTITIES KEEP ABOUT YOU, at the end of this section.

### **9.29.3-6 HOW THE MGDPA CONTROLS ACCESS TO PRIVATE DATA ON INDIVIDUALS**

This section explains when private data about an individual lawfully may be released and who has the right to access private data. One way the MGDPA regulates access is by classifying data in ways that define who is legally authorized to see the information.

- Generally, private data may be accessed only by:
  - the data subject;

- staff of the County whose work assignments reasonably require access (need to know);
- any person or entity authorized by law to access the data;
- anyone who has the permission of the data subject; and
- others who have a court order to access the data.

*See section 13.02, subdivision 12; section 13.05, subdivision 9; and Minnesota Rules, part 1205.0400.*

The MGDPA also controls access to private data by permitting disclosure of the data only if necessary to carry out a program or function specifically authorized by state or federal law. This authority may be explicit or it may be implied.

### **General summary:**

If private data were collected from the data subject, the County may use or release the data

- if Houston County has the legal authority to do so **and** the use or release of the data was properly explained in the Tennessean Warning Notice

**Or**

- if the data subject has consented to the new use or release.

If private data were not collected from the data subject, the County may use or release the data

- if Houston County has the legal authority to do so

**Or**

- if the data subject has consented to the new use or release

If confidential data were collected from the data subject, the County may use or release the data

- if Houston County has the legal authority to do so **and** the use or release of the data was properly explained in the Tennessean Warning Notice.

## **THE TENNESSEAN WARNING NOTICE**

### **Minnesota Statutes Section 13.04, subdivision 2**

**The notice must be given when:**

- An individual;
- Is asked to supply;
- Private or confidential data; **AND**
- Concerning self.

**All four conditions must be present to trigger the notice requirement.**

**The notice does not need to be given when:**

- the data subject is not an individual
- the subject offers information that has not been requested by the County
- the information requested from the subject is about someone else
- the County requests or receives information about the subject from someone else, or
- the information requested from the subject is public data about that subject.

**Statements must be included on the form that informs the individual:**

- Why the data are being collected from the individual and how the County intends to use the data;
- Whether the individual may refuse or is legally required to supply the data;
- Any consequences to the individual of either supplying or refusing to supply the data, and
- The identity of other persons or entities authorized by law to receive the data.

**Consequences of giving the notice are:**

Private or confidential data on individuals may be collected, stored, used and released as described in the notice without liability to the County.

**Consequences of giving an incomplete notice or not giving the notice at all, are:**

Private or confidential data on individuals cannot be collected, stored, used or released for any purpose other than those stated in the notice unless:

- The individual subject of the data gives informed consent;
- The Commissioner of Administration gives approval; or
- A state or federal law subsequently authorizes or requires the new use or release.

**AUTHENTICATED BY:**

\_\_\_\_\_  
Judy Storlie, Chairman  
Houston County Board of Commissioners

\_\_\_\_\_  
Date

**Authoritative References:**

Minnesota Statutes, Chapter 13, <http://www.revisor.leg.state.mn.us/revisor.html>.

Minnesota Rules, Chapter 1205, <http://www.revisor.leg.state.mn.us/revisor.html>.

Initial Date of Adoption: October 5, 2010

Date(s) of Revision: December 20, 2016

## APPENDIX A

### MODEL CONSENT FOR RELEASE OF INFORMATION

Houston County is requesting your consent (permission) to release information about you to the entities or persons listed on this form. The information cannot be released without your consent. This form tells you what information we want to release, or what information we want another entity to release to us. This form tells you the reasons we are asking for your consent. You have the right to look at all the information to be released and have copies of it. You should do this before you give your consent to release the information. If you want to look at the information or have copies of it, you must speak with to (INSERT NAME OF RESPONSIBLE AUTHORITY AND HOW TO CONTACT INFORMATION).

You may consent to release *all* of the information, *some* of the information or *none* of the information. You may consent to release information to *all*, *some*, or *none* of the entities listed on this form.

If you give us your consent, we can release the information for (TIME PERIOD) or until (EVENT OR CONDITION).

You may withdraw your consent any time before (THIS TIME PERIOD, EVENT, OR CONDITION).

If you want to withdraw your consent, you must do so in writing and deliver it to (NAME AND ADDRESS OF RESPONSIBLE AUTHORITY) and clearly say that you want to withdraw all or part of your consent.

Terminating your consent will not affect information that already has been released prior to the County's actual receipt of your written withdrawal of consent.

You do not have to consent to the release of any information that informs others that you or your child is disabled. However, if you are asking for help because of a disability, we may need specific information about the disability in order to assist you.

***If you have a question about anything on this form, please contact (NAME OF RESPONSIBLE AUTHORITY, ) before you sign it.***

-----  
I authorize Houston County [Insert Department] to release information about [name of data subject]. I understand that:

The information I agree to that Houston County release is:

The information will be given to:

You are asking me to release this information for the following purposes:

The consequences of releasing this information will be:

The consequences of *not* releasing will be:

Signature of client \_\_\_\_\_

Date signed \_\_\_\_\_

Signature of parent or guardian \_\_\_\_\_

Date signed \_\_\_\_\_

Signature of person explaining this form

\_\_\_\_\_

Date signed \_\_\_\_\_



## HOUSTON COUNTY

### THE RIGHT OF THE PUBLIC TO INSPECT AND COPY GOVERNMENT DATA

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The Minnesota Government Data Practices Act (MGDPA) gives members of the public, the right to see and have copies of public data that Houston County keeps.

The law states that the data that Houston County maintains is public **unless there is a state or federal law that classifies the data as *Confidential, Private, Nonpublic or protected nonpublic***. The County must give public data to anyone who asks, no matter who is asking or why.

#### How to Make a Request for Public Data

To inspect or have copies of data the County keeps, make a written data request to the appropriate department. The data request form in attached to this document may be used to make the request, but may not be required for all requests.

#### You have the right to look at all public data that the County maintains.

You may request and receive public information over the phone, in person, through the mail, or via e-mail. If it is not possible to give you the information in the manner you ask, we will contact you to determine another method to deliver the information to you.

If you have any questions about how to access public data that we keep, please contact the **Houston County Responsible Authority and Data Practice Compliance Officer is Houston County Attorney, Samuel Jandt**. (Suite 2300, 306 South Marshall Street, Caledonia, MN 55921, 507-725-5803) If you have any questions about your rights or this document, please contact the appropriate Responsible Authority's designee listed below.

#### Responsible Authority Designees:

<u>Name</u>	<u>Title</u>	<u>Phone number</u>	<u>Location</u>
<u>Lucas Onstad</u>	<u>Assessor</u>	<u>507-725-5801</u>	<u>304 South Marshall Street, Court House, First Floor</u>
<u>Polly Heberlein</u>	<u>Auditor/Treasurer</u>	<u>507-725-5815</u>	<u>304 South Marshall Street, Court House, First Floor</u>
<u>Samuel Jandt</u>	<u>County Attorney</u>	<u>507-725-5802</u>	<u>306 South Marshall Street, Justice Center, Second Floor</u>

<u>Brian Pogodzinski</u>	<u>County Engineer</u>	<u>507-725-3925</u>	<u>1124 E. Washington Street</u>
<u>Martin Herrick</u>	<u>Environmental Svcs</u>	<u>507-725-5800</u>	<u>304 South Marshall Street,</u> <u>Court House, Second Floor</u>
<u>Carol Lapham</u>	<u>Finance Director</u>	<u>507-725-5825</u>	<u>304 South Marshall Street,</u> <u>Court House, Second Floor</u>
<u>John Pogleasa</u>	<u>Public Health/Human</u>	<u>507-725-5811</u>	<u>304 South Marshall Street,</u> <u>Court House, First Floor</u>
<u>Tess Kruger</u>	<u>Services Director</u>	<u>507-725-5822</u>	<u>304 South Marshall Street,</u> <u>Court House, Second Floor</u>
<u>Mary Betz</u>	<u>Human Resource</u>	<u>507-725-5813</u>	<u>304 South Marshall Street,</u> <u>Court House, First Floor</u>
<u>Brian Swedberg</u>	<u>County Recorder</u>	<u>507-725-3379</u>	<u>306 South Marshall Street,</u> <u>Justice Center, First Floor</u>
<u>Eric Schmitt</u>	<u>Sheriff</u>	<u>507-725-5814</u>	<u>304 South Marshall Street,</u> <u>Court House, Basement Level</u>
<u>Robert Thoen</u>	<u>Surveyor</u>	<u>507-725-5805</u>	<u>611 Vista Drive,</u> <u>Community Services Bldg.</u>
	<u>Veteran Services</u>		

\*Responsible Authority, Compliance Officer, and Designee list updated 6/07/2021

You can make your request during normal working hours, which are 8:00 a.m. to 4:30 p.m.

The request should (1) say that the requestor is making a data request under the MGDPA, (2) say whether the requestor wishes to inspect the data, have copies of the data, or both, and (3) describe very clearly the data to be inspected or copied. Anyone requesting public data has the right to inspect the data before deciding to request copies. Any member of the public also has the right to make a standing request to inspect or have copies of public data. Standing requests expire after 3 months. Standing requests must be made to the Responsible Authority.

### **How Houston County Responds to a Data Request**

First, if it is not clear exactly what data are being requested, the County will ask the person who is making the request, and then find out if the County has the data. If the County does not have the data, the requesting person will be notified as soon as reasonably possible. If we need more time to identify, find, or copy the data you are asking for, we will let you know and we will tell you when we will be able to provide you the data.

### **The County does not have to provide you data we do not keep.**

If the County does not have the data you are asking for, we will tell you as soon as is reasonably possible. The County does not have to collect or create data for you in order to respond to your request.

**If the County has the data but the data are not public,** the requesting person will be notified as soon as reasonably possible, and The County will identify the specific law that makes the data not public. The County will do this in writing upon request.

**If the County has the data and the data are public:**

- if the request is to inspect the data, The County will arrange a date, time and place for inspection. The County can't charge a fee for letting someone inspect data; and
- if copies are requested, The County will provide them as soon as reasonably possible by mail or fax, or they may be picked up. If The County keeps the data in electronic form and copies are requested in electronic form (such as by email or on disk), the copies will be provided in electronic form.

The County charges a fee for providing copies. If a person inspects data and then asks for copies of only some of the data, the County charges a fee only for the copies requested.

The County will respond to a data request in an appropriate and prompt way, and in a reasonable time. This depends on things such as how the size of the data request, how many staff members are available to respond to the request, and how many other data requests the County is responding to.

**The County may not have to give you public data in the form you want.**

If we have the data you are asking for, but we do not keep the data in the form you want, we may not be able to give you the data in that form. If we put the data in the form you want, we will let you know how long it will take us to provide the data and how much it will cost to do so. Then you can decide if you want the data in that format or not.

**The County cannot charge you a fee for looking at public data.**

You have the right to look at public data at no cost. We will let you look at computerized data on a computer screen, or print a copy, so that you can inspect the data at no charge.

You also may inspect public data on your own computer, and you may print or download the data using your own computer, at no cost.

The County cannot charge you a fee for separating public data from data that are Not Public.

**You have the right to have public data explained in a way you understand.**

If you have any questions about the meaning of public data that we keep, please contact an appropriate County official from the above list and ask for an explanation.

**The County has the right to charge you a reasonable fee for providing copies.**

We will require the payment of a fee for providing copies of data. If you ask us to mail or fax the copies, the fee will include postage or long distance phone charges. If you request a certified copy of a document, we will charge you a fee to certify the document.

The County may charge an additional fee for data having commercial value. The fee will be based upon the time and expense of creating the data, and the public value of the data. The fee

for each type of commercial valued data will be approved annually by the County Board as part of its County Fee Schedule.

Our fee for providing copies is set out in the Houston County Fee Schedule, located on the County's website. We require prepayment of any fees connected to data practices requests.

**You have the right to see and have copies of summary data.**

Summary data are statistical records or reports that are prepared by removing all identifiers from private or confidential data on individuals. We will prepare summary data for you if you make a request in writing- letter, fax, e-mail, etc. to any of the names listed below and pay the fee to prepare the data.

The County requires prepayment for this service. When we receive your request, we will contact you to make detailed arrangements to prepare the summary data.

**[SPACE INTENTIONALLY LEFT BLANK]**



## Houston County

### Request to Inspect and/or Copy Government Data

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Date of request:

Describe the data you are requesting. Please be as specific as possible. Please say whether you are asking to inspect the data, whether you want copies of the data, or both. If you need more space, please use the back of this form. \*\* NOTE, please complete a *Sheriff's Office Consent and Request for Law Enforcement Records* form for all located on the Houston County Sheriff's Office website law enforcement records requests.

You have the right to *inspect* data at no cost. If you ask for *copies* of data, The County may charge a fee for providing the copies. If you would like more information about your right to inspect and have copies of data that the County keeps, contact Houston County's Data Practices Compliance Official: The Houston County Attorney, 304 South Marshall Street, Caledonia, MN 55921, 507-725-5803.

**If you are asking for data that are *not* about you,** The County will comply with your request as soon as reasonably possible. It may be helpful to know who you are and/or how to contact you in order to respond to your request – for example, if you want copies mailed to you or if you want to come in and inspect data at a later time. *You do not have to provide this kind of information.* You can decide to provide this kind of information now, later or not at all.

Name

[PLEASE PRINT]: \_\_\_\_\_

Contact information (phone number, e-mail or mailing address): \_\_\_\_\_

**If you are asking for data about yourself or your minor children,** or about someone for whom you have been appointed legal guardian, you may have to sign this form and show a driver license or State ID card as proof of your identity. You may be asked for other information if it is needed to verify your identity or respond to your request. The County will comply with your request within 10 business days.



## **Houston County**

### **Summary of Copy Fees**

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**A current schedule of fees is listed on the official Houston County Website:**

**[http://www.co.houston.mn.us/Documents/Auditor/FEE\\_Schedule.pdf](http://www.co.houston.mn.us/Documents/Auditor/FEE_Schedule.pdf)**



## HOUSTON COUNTY

### THE RIGHTS OF INDIVIDUALS UNDER THE MINNESOTA GOVERNMENT DATA PRACTICES ACT

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The Minnesota Government Data Practices Act (MGDPA) is a law that gives you important rights when Houston County collects, creates, keeps, uses or releases data about you.

#### **An important note about who may exercise individual rights**

The law defines an individual as a living human being. The law classifies data that the County keeps about individuals as public, private or confidential. The County must give public data about individuals to anyone who asks, no matter who is asking or why. The law says the County can give private data about individuals only to the individual, to someone with the individual's permission, to County staff on a need-to-know basis, and according to law or court order. The County can give confidential data about an individual only to County staff on a need-to-know basis and according to law or court order.

- ***If you are a minor*** (which means that you are not yet 18 years old), your parents or your guardian usually have the same rights as you do. This means that each of your parents or your guardian usually can look at and have copies of information we keep about you. Usually, they each have the right to give their consent to release the data about you. They each can challenge the accuracy and completeness of the data about you.

If you have no parents, or if your parents are not a part of your life, then your legal guardian has these rights.

In some cases, your parent or guardian does not have these rights. For example, we will not let your parent(s) or guardian exercise the rights the law gives you if there is a court order that takes these rights away from them. The court order might be about a divorce, separation, custody or some other matter, or it might take away the parental rights of your parent(s). Also, sometimes a state or federal law says that we cannot let your parents see information about you.

- ***If you have been appointed as the legal guardian for someone***, you may exercise that individual's rights under the MGDPA. To do so, you must show proof of your appointment as legal guardian.

**The law controls how the County collects, keep, use and release data about you.**

The County can collect, keep, use and release private and confidential data about you only when a state or federal law allows or requires us to do it. The law further provides that the County can collect, keep, use and release private and confidential data about you only in order to perform our jobs.

**The law requires the County give you a notice when we ask you to supply data about yourself.**

- When we ask you to give us private or confidential data about yourself, we will give you a notice. The notice sometimes is called a Tennessean Warning Notice. *For data collected by law enforcement see Minn. Stat. § 13.82 and related Minn. Rules, and other state and federal statutes; and Minn. Stat. §13.46 and related Minn. Rules regarding the collection of data by the County Human Services.*
- We will tell you why we are collecting the data from you and how we plan to use the data;
- If there is a law that says you must give us the data, we will tell you that. We also will tell you if you do not have to give us the data; We will tell you what might happen (consequences) to you if you give us the data;
- We also will tell you what might happen (consequences) to you if you do not give us the data; and
- We will tell you what other people or entities have the legal right to know about, see or have copies of the data you give us. When we tell you this, we will be as specific as we can be.

The County is only required to give you the Tennessean Warning Notice when we are asking you to give us private or confidential data about yourself. We *do not* have to give you the notice when:

- you give us information we haven't asked for;
- the information we are asking for is about someone else;
- the information we are asking for is public data about you; or
- the information is collected by a law enforcement officer who is investigating a crime. This includes police officers, and members of the fire department and sheriff's office.

**You have the right to know if we keep data about you.**

If you ask, the County will tell you if the County maintains information about you and we will tell you if the data are classified as public, private or confidential. To find out what information the County may maintain about you, contact the appropriate Responsible Authority listed at the end of this document. You have the right to see specific documents, files, records or types of data that we keep. You also have the right to ask for and see *all* of the public and private data about you that we keep. The law does not give you the right to see **confidential** data, (this may be data that is use for during active investigations etc.)

**How an Individual Makes a Request for Data**

To inspect or have copies of public or private data about him/her or minor children, or about someone for whom s/he has been appointed legal guardian, an individual must make a data

request to the County Responsible Authority or designee. The request must be in writing. It may be sent by letter, email or fax, or the individual may use the County data request form.

In the request, the individual should say that s/he is making a data request under the MGDPA. The individual should describe very clearly the data to be inspected or copied, and say whether s/he wishes to inspect the data, have copies of the data, or both. The individual has the right to inspect the data before deciding to request copies. The individual also has the right to make a standing request, which expires after 3 months. Standing requests must be made to the appropriate Responsible Authority listed below.

After you have looked at the data you requested, we do not have to let you see the data again for six months, unless we collect or create more information about you before six months have passed. You do not have to wait for six months to see the data again if we have collected new data about you, or if you have challenged any of the data, or if you are appealing the results of that challenge. See the information below about how to challenge the accuracy and/or completeness of government data.

In your request, tell us as clearly as you can what types of data or information you want to see. (Some departments may require you use their official form.) Once we have your data request, we will show you the data right away if we can. If we cannot show you the data right away, we will show you the data in no more than ten business days.

The law says we must protect private data about you. For this reason, a member of our staff may be with you when you inspect the information.

***Note regarding access to data about minors:***

If you are a minor, you have the right to ask us not to let your parents or guardian have private data about you. If you do not want us to give your parents information about you, you must write to the appropriate Responsible Authority listed below.

After you make your request, the County must decide if we will let your parents see the data. Before we make this decision, we must think about:

- Is there a law that says we must give the data to your parents?
- Do you have a good reason for asking us not to release the data?
- If we give your parents the data, would you be harmed in any way?
- Do you understand what will happen if we do not release the data?

We also must think about whether it is in your best interest for us not to give the data to your parents.

**You have the right to have public and private data about you explained to you.**

If you have questions about the data we keep about you, please contact the appropriate Responsible Authority listed below. We will explain the data in a way you understand.

**The County cannot charge you a fee for looking at data about yourself.**

You do not have to pay any money just to look at data about yourself, even if we must make a copy of the information so that you can look at it.

**Houston County will charge a fee for making the copies.**

The County requires the payment of a fee for providing copies of data. The County can only charge you the actual cost of making and compiling the copies. If you ask us to mail or fax the copies to you, the fee will include postage or long distance phone charges. If you request a certified copy of a document, we will charge you a fee to certify the document. See the Houston County Fee Schedule.

**You have the right to know why you cannot see or get copies of data we keep about you.**

If the information you want to see is Not Public or private data about you, we will tell you that, and we will tell you what part of the law says we cannot show it to you.

**You have the right to challenge the accuracy and/or completeness of data about you.**

If you believe that public or private data that we keep about you are inaccurate and/or incomplete, you may file a data challenge with us. You may challenge only *accuracy* and *completeness* of data.

- *Accurate* means the data are reasonably correct and do not contain any errors.
- *Complete* means that the data describe the history of your contracts with us in a complete way.

For example, data may be inaccurate or incomplete if a wrong word, name, or phrase is used; if the data give a false impression about you; if certain information is missing from the record; or if certain information should not be in the record.

Please refer to the Houston County document entitled “**Challenging the Accuracy and/or Completeness of Data the County Maintains about You.**”

**The Houston County Responsible Authority and Data Practice Compliance Officer is Houston County Attorney, Samuel Jandt.** (Suite 2300, 306 South Marshall Street, Caledonia, MN 55921, 507-725-5803) If you have any questions about your rights or this document, please contact the appropriate Responsible Authority’s designee listed below.

**Responsible Authority Designees:**

<u>Name</u>	<u>Title</u>	<u>Phone number</u>	<u>Location</u>
<u>Lucas Onstad</u>	<u>Assessor</u>	<u>507-725-5801</u>	<u>304 South Marshall Street, Court House, First Floor</u>
<u>Polly Heberlein</u>	<u>Auditor/Treasurer</u>	<u>507-725-5815</u>	<u>304 South Marshall Street, Court House, First Floor</u>
<u>Samuel Jandt</u>	<u>County Attorney</u>	<u>507-725-5802</u>	<u>306 South Marshall Street, Justice Center, Second Floor</u>
<u>Brian Pogodzinski</u>	<u>County Engineer</u>	<u>507-725-3925</u>	<u>1124 E. Washington Street</u>
<u>Martin Herrick</u>	<u>Environmental Svcs</u>	<u>507-725-5800</u>	<u>304 South Marshall Street, Court House, Second Floor</u>
<u>Carol Lapham</u>	<u>Finance Director</u>	<u>507-725-5825</u>	<u>304 South Marshall Street, Court House, Second Floor</u>

<u>John Puleasa</u>	<u>Public Health/Human</u>	<u>507-725-5811</u>	<u>304 South Marshall Street,</u>
	<u>Services Director</u>		<u>Court House, First Floor</u>
<u>Tess Kruger</u>	<u>Human Resource</u>	<u>507-725-5822</u>	<u>304 South Marshall Street,</u>
	<u>Director</u>		<u>Court House, Second Floor</u>
<u>Mary Betz</u>	<u>County Recorder</u>	<u>507-725-5813</u>	<u>304 South Marshall Street,</u>
			<u>Court House, First Floor</u>
<u>Brian Swedberg</u>	<u>Sheriff</u>	<u>507-725-3379</u>	<u>306 South Marshall Street,</u>
			<u>Justice Center, First Floor</u>
<u>Eric Schmitt</u>	<u>Surveyor</u>	<u>507-725-5814</u>	<u>304 South Marshall Street,</u>
			<u>Court House, Basement Level</u>
<u>Robert Thoen</u>	<u>Veteran Services</u>	<u>507-725-5805</u>	<u>611 Vista Drive,</u>
			<u>Community Services Bldg.</u>

\*Responsible Authority, Compliance Officer, and Designee list updated 9/08/2023



## HOUSTON COUNTY

### CHALLENGING THE ACCURACY AND/OR COMPLETENESS OF DATA THAT HOUSTON COUNTY KEEPS ABOUT YOU

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The Minnesota Government Data Practices Act gives you the right to challenge the accuracy and/or completeness of public and private data being maintained about you by any government entity in Minnesota. **There are two steps in this process.**

The **first step** is to make a data challenge to Houston County. If the County agrees that the data are inaccurate or incomplete, the County must change the data so they are accurate and/or complete.

If the County does not agree with the data challenge, you have the right to take the **second step** and appeal the County's determination to the Commissioner of the Minnesota Department of Administration.

*It is important to follow the steps carefully and to perform all of the procedures described below.*

#### Step One: Making a Data Challenge

First, identify the County's Responsible Authority (s). This person is responsible for overseeing data practice compliance for his/her County department. The Responsible Authorities are listed in the following County documents. "The right of the public to Inspect and Copy Data Houston County" and "The Rights of Individuals under the Minnesota Government Data Practices Act.

Next, write to the Responsible Authority (s) and ask to look at all public and private data the County maintains about you. In order to protect your rights, it is very important that you make your data request to the Responsible Authority (s).

You may wish to make an appointment to inspect the data, which you may do free of charge. You also may ask for copies of the data. If you do, the government entity does have the right to charge you reasonable copying costs.

Review or inspect the data very carefully and make a note about any information that you believe is inaccurate or incomplete. Inaccurate means that the data are not correct or that there are errors in the data. For example, data might be inaccurate because a name is not spelled right, someone

is not quoted correctly, wrong facts are stated, or a name, time or date are wrong. *Incomplete* means that the data do not describe all of your contacts with the County in a reasonable way. For example, data might be incomplete because words are left out of a report, a document is missing from a file, or an interviewer did not file a report about an interview.

Inaccurate or incomplete data can be a word, a sentence, a phrase, a paragraph, a number, a punctuation mark, etc. Sometimes it is difficult to decide exactly what makes the data inaccurate or incomplete.

The next step is to notify the County's Responsible Authority (s) that you are challenging the accuracy and completeness of data that the County maintains about you. To protect your rights, be sure to say clearly that you are challenging data under the provisions of Minnesota Statutes section 13.04, Subdivision 4. This challenge notice must be done in writing – such as by letter, e-mail or fax. If you are sending a letter, you may wish to send it by certified mail with return receipt requested. Be sure to keep a copy of your letters and any other correspondence.

In your challenge notice:

- Identify the data that you are challenging. There are many ways to do this. Because it is important to be very specific, a good way to identify the data is to make a copy of the document(s) containing the data, clearly mark the data you are challenging, and enclose the copy with your letter.
- Describe *why* or *how* the data are inaccurate or incomplete. Be very specific and write down as many reasons as you can.
- Say what you think should be done to make the data accurate or complete. For example, you may ask the County to *add* a word, phrase, page, etc., to make the data complete or accurate. You may ask the County to *change* the data to make them accurate or complete. You also may ask the County to *remove* data from a file or *delete* some of the data to make the rest of the data complete and/or accurate. Again, be very specific and explain very carefully what you want the County to do to make each piece of data accurate and/or complete.

When the Responsible Authority (s) receives your challenge notice, s/he has 30 days to review it and to decide if the data are inaccurate or incomplete. The Responsible Authority (s) may agree with all, part or none of your data challenge. The Responsible Authority (s) must notify you of his or her decision.

If the Responsible Authority (s) *agrees* with your challenge, the County must make the changes you requested and try to notify anyone who has received the data in the past. This includes anyone you name.

If the Responsible Authority (s) *does not agree* to correct or make changes to the data you have challenged, s/he must notify you. Then you have the right to take the second step in the process. The second step is to appeal the County's decision (determination) about your challenge.

## **Step Two: Appealing the County's Decision about Your Challenge**

If you do not agree with the results of your data challenge, you may appeal the County's decision to the Commissioner of the Minnesota Department of Administration.

If the County told you in writing that you have the right to appeal its decision about your data challenge, you must file your appeal within 60 days of the decision. If the County did *not* tell you in writing that you have the right to appeal, you have 180 days from the date of the decision to file your appeal.

You must send your appeal to the Commissioner of Administration in writing- a letter, an e-mail message, a fax, etc. You must include your name, address and a phone number (if any), the name of the entity that has the data you challenged, and the name of the Responsible Authority for that entity.

Describe the data that you believe are inaccurate or incomplete, and tell why you disagree with the County's decision about your challenge.

Also tell the Commissioner what you want to happen because of your appeal. For example: Do you want the County to remove data from its files? Do you want the County to change or add data?

Include a copy of your data challenge letter and copies of any other correspondence about your challenge that you have sent or received. Send your appeal to:

Commissioner of Administration  
State of Minnesota  
50 Sherburne Avenue  
Saint Paul, MN 55155

If the Commissioner determines that your appeal meets all of the requirements in the law, the appeal will be accepted. At that point, the Department's Information Policy Analysis Division (IPAD) will try to resolve the dispute in an informal way, using conferences and/or conciliation. The IPAD also may suggest that you and the County take the matter to mediation.

If the dispute cannot be resolved informally, the Commissioner will, in most instances, order a hearing by the Administrative law judge in the state Office of The Administrative Hearings. The Administrative law judge then hears the case and makes a recommendation to the Commissioner. The Commissioner reviews the recommendation and issues an order about whether the data are accurate and/or complete. You and Houston County each have the right to appeal the Commissioner's order to the Minnesota Court of Appeals.

You do not need to be represented by an attorney to appeal the results of a data challenge, but legal advice can be helpful because the Administrative law process can be technical and complex.



## **Data on Individuals Maintained by Houston County**

This document identifies the name, title, and address of the Responsible Authority and designees for the County and describes private or confidential data on individuals maintained by the County (see Minn. Stat. 13.05 and Minn. Rules 1205.1200).

This document is also part of the Houston County's procedures for ensuring that not public data are only accessible to individuals whose work assignment reasonably requires access (see Minn. Stat. 13.05, Subd. 5). In addition to the employees listed, the County's Responsible Authority, Data Practices Compliance Official will also have access to all not public data on an as needed basis as part of a specific work assignment.

Houston County's Responsible Authority is:

**Samuel Jandt, County Attorney**

Suite 2300

306 S. Marshall Street

Caledonia, MN 55921

## Duties of Responsible Authority, Designee, and Data Practices Compliance Official

<b>Statutory Responsibility</b>	<b>Responsible Authority</b>	<b>Designee</b>	<b>Data Practices Compliance Official</b>
Prepare access procedures for members of the public and data subjects. (13.025; 13.03, subd. 2)	<b>X</b>		
Establish procedures to ensure that data on individuals are accurate, complete, and current. (13.05, subd. 5)	<b>X</b>		
Establish security safeguards for data on individuals. (13.05, subd. 5)	<b>X</b>		
Establish procedures to ensure that the entity responds to requests for government data appropriately and promptly. (13.025)	<b>X</b>		
Prepare summary data. (13.05, subd. 7)	<b>X</b>		
Apply to the Commissioner of Administration for a temporary classification of data. (13.06)	<b>X</b>		
Ensure that the entire entity complies with Chapter 13 and the Rules. (13.02, subd. 16; Minn. Rules 1205.0900)	<b>X</b>		
Appoint designee(s) (optional). (13.02, subd. 6)	<b>X</b>		
Appoint a data practices compliance official. (13.05, subd. 13)	<b>X</b>		
Respond to requests for government data. (13.02, subd. 6; 13.03; 13.04)	<b>X</b>	<b>X</b>	
Responsible for files and systems containing government data. (13.02, subds. 6 and 16)	<b>X</b>	<b>X</b>	
Answer inquiries from the public concerning Chapter 13 or the Rules. (13.02, subds. 6 and 16; 13.05, subd. 13)	<b>X</b>	<b>X</b>	<b>X</b>

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