



Annual Report from the Data Practices Office

Fiscal Year 2021

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Introduction

The mission of the Department of Administration’s Data Practices Office (DPO) is to promote understanding of and compliance with the Minnesota [Government Data Practices Act](#) and [Open Meeting Law](#). To further our mission, we provide the following services:

- Informal advice and technical assistance to government entities and members of the public (including the Legislature and the media) on questions related to data practices and open meetings;
- Training on the Data Practices Act and Open Meeting Law;
- Assistance to the Commissioner of Administration on data practices statutory duties, including advisory opinions, temporary classifications, new uses of data, and data challenge appeals;
- Legislative assistance to individuals, organizations, government entities, and the Legislature in drafting and tracking data practices and open meetings legislation;
- Explanatory information pages, model policies and procedures, informational videos, and training modules on our website and YouTube page; and
- Consultation on projects concerning data practices and open meetings issues.

The Office is funded for four full-time staff members and has an annual general fund budget of \$555,000.

Impact of the COVID-19 Pandemic

Throughout Fiscal Year 2021 (July 2020 – June 2021), DPO operated with three staff members. We started offering paid workshops through a virtual platform at the end of the first quarter of the FY21. The revenue from DPO workshops was approximately \$31,000 for FY21. (Compared to approximately \$16,000 in FY20 and approximately \$40,000 each year, pre-pandemic.)

Partner Contacts

This section details our interactions with government, public, media, and legislative partners, referred to as *partner contacts*. We provide informal advice and technical assistance to government entities and members of the public. Authority to provide this service comes from [Minnesota Statutes, section 13.073, subdivision 5](#) and [Minnesota Rules, part 1205.1700](#).

We receive calls and emails with questions about data practices and open meetings. Our aim in providing informal guidance to government partners is to promote compliance through greater understanding of the law. Our goal in providing informal guidance to our public community partners is to assist them in accessing data to which they are entitled and understanding why they may not be able to have access to other data.

Occasionally, a member of the public or government will ask for an “informal advisory opinion” on a specific question. In that case, we handle the question in the same manner as a request for technical assistance, rather than through the formal advisory opinion process (see page 5).

Contact summary

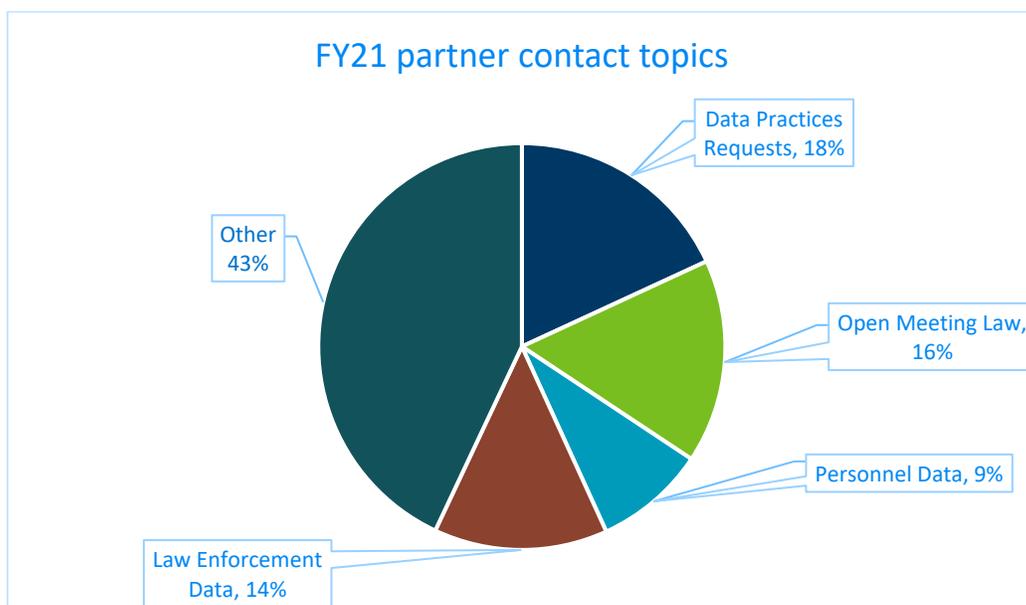
DPO team members track each incoming contact from our partners via phone calls, emails, and in-person visits. In our correspondence or conversation, we may discuss one or several topics, which we also track. Specific topic areas are noted below.

During FY21 we received and responded to 1,506 requests from our partners for informal advice or technical assistance. This partner contact number does not include the number of individuals we trained, requests for advisory opinions, audits we received and reviewed, or data challenge appeals.

Contact topics

The following are the top four topic areas of inquiry we addressed during FY21. These four topic areas resulted in over half (57%) of the questions we fielded in FY21.

1. **Data practices requests (286)** – assistance with fulfilling data requests, status updates, understanding entity responses.
2. **Open Meeting Law (256)** – understanding notice requirements, closed meetings, and technology.
3. **Law Enforcement Data* (218)** - assistance obtaining and classifying information related to incident reports, investigations, and traffic accidents.
4. **Personnel Data (140)** - assistance obtaining and classifying information related to public employees, volunteers, and independent contractors.



*The number of law enforcement data contacts includes questions related to body cameras, which are tracked separately, but accounted for 13% of all law enforcement questions in FY21.

The remaining 43% of inquiries involved the following topics:

- Advisory opinions (35)
- Copy costs (37)Data breaches (21)
- Data classification (99)
- Data sharing (20)
- Education data (14)
- HIPAA & MN Health Records Act (18)
- Legislative (16)
- Official Records (48)
- Redaction (5)
- Other statutory duties (52)
- Other (162)
- Security and trade secret information (15)
- Social services data (22)
- Tennesen warning notice and informed consent (31)
- Training (76)

The next most requested topics were data classifications, other statutory duties (including questions about temporary classifications, new uses of data, notification requirements, data challenge determinations and appeals, and adoption of model policies), official records, and other. “Other” includes topics such as licensing data, corrections data, data on decedents, statutory provisions outside of Chapter 13, website feedback, and inquiries that are out of scope for the office.

The Office is revising its methodology for tracking partner contacts for FY22.

Data Practices and Open Meetings Training

Workshops, Webinars, and other trainings

The Office has developed curriculum for full-day and half-day training workshops based on the highest priority needs of our partners, as identified in the top four partner contact topic areas. Our full-day workshops cover the topics of law enforcement data and personnel data. Our half-day workshops cover open meetings and data practices basics (access policies, data requests, and data classification). The curriculum for these hands-on, interactive workshops provides an in-depth experience for our partners and take additional staff time to develop and facilitate. Therefore, we charge a fee to recoup a portion of our costs. Short presentations, trainings, webinars, or overviews that we conduct on an ad-hoc basis remain free for our partners.

DPO conducted all trainings via WebEx. **The Office trained a total of 1,973 partners in FY21.**

- 34 total training events in FY21
 - 10 full-day and half-day workshops
 - 9 free webinars: four of a two-part series on law enforcement data, six Data Practices Potpourri webinars where we addressed questions from the preceding month, and an Open Meeting Law refresher for public body partners during the COVID-19 State of Emergency
 - 860+ people attended our webinars live
 - 78 views on average for webinars posted to YouTube.
 - Between 7 and 125 views per webinar
 - Law enforcement data series had the most views

The Office also conducted presentations for several State enterprise agencies/groups, several legislative committees and councils, the State ethnic councils, and we partnered with the Attorney General’s Office and Minnesota CLE for two presentations.

Partner feedback

At each workshop and most webinars, we ask our partners to provide feedback. We use this feedback to determine the training curriculum and to develop new content to address partner needs.

In evaluating our training content, we ask for feedback in four areas:

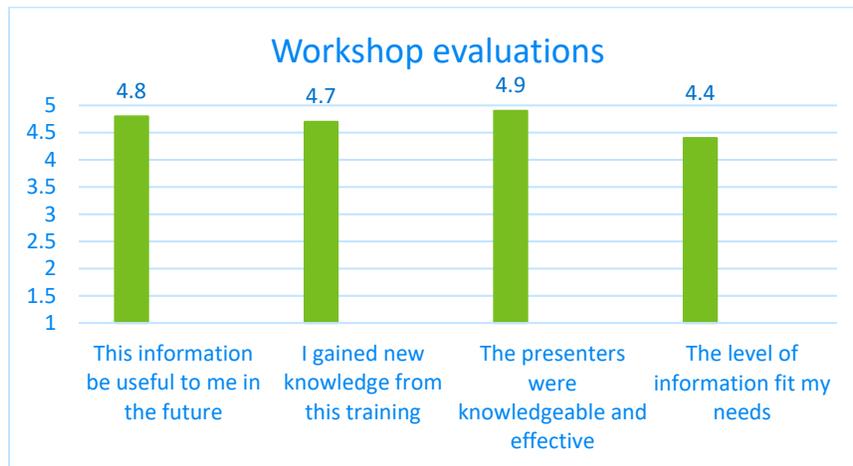
1. Whether the information presented will be useful to the attendee in the future;
2. If the attendee gained new knowledge about data practices and/or open meetings;
3. Whether the presenters were knowledgeable and effective presenters; and
4. Whether the level of information met attendees’ needs.

We ask our partners to provide a rating from 1 – 5, with a rating of 1 being the lowest (i.e., the information will not be useful in the future, the attendee did not gain any new knowledge, the presenters were not knowledgeable and effective presenters, the level of information did not fit my needs.)

Trends

We continued to observe a downward trend in the response rate to our training evaluation surveys. We can attribute this to conducting webinars with a larger audience and less interactivity. Out of 681 total webinar attendees who were offered the survey, only 322 responded (about 47%). Our webinars tended to reach anywhere from 60-120 people. By contrast, about 17-31 people attended each of our workshops and 147 out of 197 attendees responded to the evaluations (about 75%). The following charts show the average evaluation scores for webinars and workshops.





Our office received overwhelmingly positive scores and feedback from those responding to our evaluation surveys. Compared to FY20, webinar feedback increased in the three areas reported (information useful, gained new knowledge, presenters knowledgeable and effective). Workshop feedback remained steady and increased by 2% for “presenters were knowledgeable and effective.”

Evaluation comments from webinar attendees:

- I enjoyed the Potpourri style webinar. Very helpful and hope these continue.
- Thank you so much for this training. Your group is ALWAYS so knowledgeable and helpful. Thank you for all you do!!
- These trainings are very much appreciated. Please keep them coming.
- This forum is super helpful with learning! Thank you!
- This was the first time I attended - great job! I liked that 'real life' topics were discussed and the associated MN Statutes.

Evaluation comments from workshop attendees:

Introduction to Data Practices Policies and Procedures

- A lot to take in. VERY knowledgeable and easy to follow. Greatly appreciate the knowledge and personal touch!
- Presenters did an excellent job working together. Excellent presentation skills.

Law Enforcement Data Workshop

- Thank you for putting this presentation together. I have learned so much from the law enforcement point of view.
- Thank you for making the topics relevant and to the point as much as possible, helped to take the overwhelming aspect out of some complex scenarios.

Do's and Don't's of Government Personnel Data

- Thank you so much. Great information and great job presenting. You all are very knowledgeable!
- I liked the polls throughout the training, I enjoyed the breakout groups, and I liked the ability to ask questions throughout the workshop.

Advisory Opinion Activity

The Commissioner of Administration has authority to issue non-binding advisory opinions, on certain matters involving data practices and open meetings, pursuant to [Minnesota Statutes, section 13.072](#). DPO administers the advisory opinion process for the Commissioner. The Commissioner has issued more than 1,000 opinions since 1993, which provide a range of guidance on many data practices and Open Meeting Law issues. Our [website](#) hosts the full text of all advisory opinions.

Opinion authority and process

For data practices opinions, government entities may ask, “any question relating to public access to government data, rights of subjects of data, or classification of data under [Chapter 13] or other Minnesota statutes governing government data practices.” Members of the public who disagree with an entity’s determination may ask for an opinion about, “the person’s right as a subject of government data or right to have access to government data.” Requesters do not need to pay a fee for a data practices advisory opinion request.

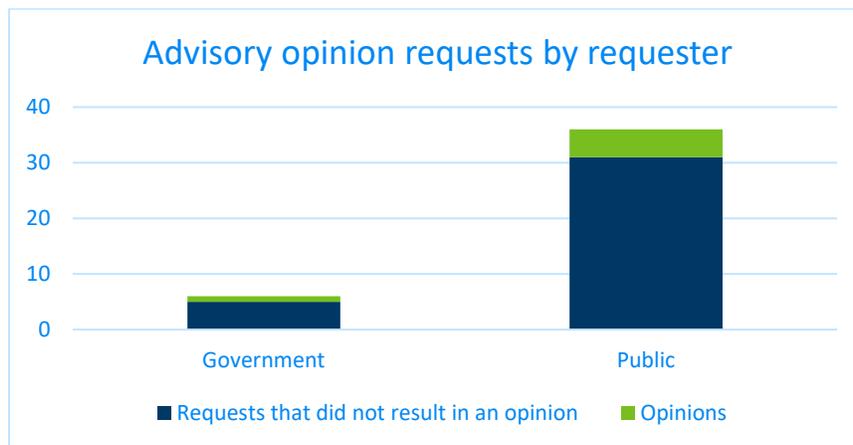
A public body may ask for an advisory opinion on “any question relating to the public body’s duties under Chapter 13D.” A member of the public who disagrees with the manner in which a public body performs its duties under the Open Meeting Law may also ask for an opinion. Requesters must pay a \$200 fee for an Open Meeting Law advisory opinion request.

The Commissioner has five business days to decline to issue an advisory opinion request. For accepted requests, the Commissioner has 20 days to issue an advisory opinion and can extend that time for 30 days for good cause. During that time, DPO team members seek comments from parties, draft the opinion, and the Commissioner reviews and signs the opinion. The Commissioner does not have fact-finding authority and limits parties to one opportunity to present their facts and arguments.

Opinion requests in FY21

The Commissioner received 43 opinion requests and issued six formal advisory opinions in FY21. This number is about the same as in FY20, when the Commissioner received 41 requests. Of the opinions issued in FY21, four opinions raised Open Meeting Law issues and two addressed personnel data issues.

The following chart shows the opinion requests by requester:



We respond to all advisory opinion requests and are able to resolve many of the issues requesters raise through education and communication with the parties, which is usually more expedient than the formal advisory opinion process. In many situations, we provide technical assistance in an email or letter, direct the opinion requester to prior advisory opinions on the requested topic, and/or provide informal resolution assistance by contacting government entities to resolve disputes with data requesters.

Of the 37 opinion requesters that did not receive an advisory opinion:

- 19 received informal resolution or technical assistance
- 6 raised issues outside the scope of section 13.072 or involved a factual dispute that the Commissioner could not resolve
- 5 required additional information not provided by the requester
- 2 were in litigation or the subject of a court order
- 2 were requested by public body members raising intra-body disputes
- 3 were declined on other grounds

Other activities

Temporary classification requests

The Commissioner of Administration has authority to approve requests for temporary classification of government data under [Minnesota Statutes, section 13.06](#). The Commissioner received one application for temporary classification of data in FY21. Hennepin County sought to classify data about county education program participants as private data. The Commissioner did not receive any public comments on the application and partially approved the temporary classification on Nov. 2, 2020. The temporary classification will remain in effect until August 1, 2022, or upon action of the legislature, whichever is first.

Requests for new uses of government data

Government entities may request approval from the Commissioner for a new use of private or confidential data the entities maintain under Minnesota Statutes, section 13.05, subdivision 4(c). The Commissioner did not receive or act on any requests for new uses of data in FY21.

Data challenge appeals

Data subjects have the right to challenge the accuracy and completeness of data about them under Minnesota Statutes, section 13.04, subdivision 4. The Commissioner of Administration has the authority to receive appeals of those challenges. DPO administers that process for the Commissioner. Complete appeals that meet the requirements are offered informal resolution and then set for an administrative hearing at the Office of Administrative Hearings. The Commissioner may agree or disagree with the administrative law judge's findings.

Automated license plate reader audits

The Commissioner of Administration is tasked with receiving audit report summaries for law enforcement agencies using automated license plate readers (ALPR) pursuant to Minnesota Statutes, section 13.824, subdivision 6. DPO administers the audit review function for the Commissioner.

Areas for growth and looking forward

Public partner outreach

In FY22, DPO plans to work on connecting more with our public partners. We hope to team up with members of the public and the media to do presentations and outreach.

Training

DPO is in the process of reviewing and updating current training offerings, including paid half-day and all-day workshops. We are also developing additional types of training that we hope to debut in the second half of FY22. We will continue to offer free webinars and hope to partner with guest speakers who have data practices and records management expertise.

Legislative

The Office will monitor and work with the Minnesota Legislature on data practices and open meeting issues, including work with the re-established Legislative Commission on Data Practices in its efforts to study issues relating to government data practices and individual privacy rights (see [Minnesota Statutes, section 3.8844](#)). DPO will also review statutes and rules related to our work to propose changes for operational efficiency.