

WRITTEN TESTIMONY OF MATT EHLING
MINNESOTA COALITION ON GOVERNMENT INFORMATION (MNCOGI)
Comments on HF 76 “Policing Excellence Data” language (Special Session)
House Judiciary Committee, June 15, 2020

MNCOGI submits the following comments about the data provisions of the amendment to HF 76 - lines 3.26-6.17 - the “Peace Officer Community Policing Excellence Data” section. MNCOGI takes no position on the underlying proposal, but urges technical changes to the data provisions to bring the bill language into greater conformity with the requirements of Minnesota Statutes, Chapter 13. Doing so will ensure transparency related to the operations of the “community-based research organization” set out in the bill language, as well as ensure that data transferred to the organization is maintained in concert with Chapter 13’s requirements. MNCOGI thanks Representative Mariani and the committee for reviewing its suggestions.

MNCOGI’s comments are offered section-by-section:

Suggested changes to lines 4.12 - 4.15:

Subd. 2. **Data submission.** (a) Beginning January 15, 2021, a chief law enforcement officer of a law enforcement agency shall submit the following data regarding peace officers employed by the law enforcement agency to a designated community-based research organization that has contracted with INSERT GOVERNMENT AGENCY to monitor the data, compile the report, and provide the notifications required by this section;

(NOTE - The “community-based research organization” set out in the bill is undertaking a quasi-governmental function by evaluating the staff of government entities (specifically, police personnel), and providing reports about their conduct to those entities. Because of this, the research organization should be subject to Chapter 13’s provisions - at least to the extent of the quasi-governmental function that is being performed. By requiring the research organization to have a contract with a government entity, the organization will then be subject to Chapter 13’s requirements - both for data access [in order to ensure that the public can understand how the organization is performing this function], as well as for data security [since some “not public” data will be maintained by the organization].)

Suggested changes to lines 5.24 - 5.28:

Subd. 3. **Data storage and access.** (a) The designated community-based research organization shall ~~store~~ maintain the data collected under this section ~~on a secure server~~ subject to the provisions of Minnesota Statutes, Chapter 13;

(NOTE - Since the research organization would have a contract with a government entity, it would be required to abide by the requirements of Chapter 13, including the data security and data breach language of Chapter 13 that pertains to “not public” data maintained by the organization.)

Suggested changes to lines 6.3 - 6.11:

Subd. 5. **Monitoring data; pattern of misconduct.** The designated community-based research organization must monitor the data on an ongoing basis to collect data on officers subject to multiple complaints and excessive use of force incidents and, in consultation with the Police-Community Relations Council, establish criteria for notifying an officer’s employer when the officer has been determined to have an excessive number of complaints. If the criteria for notifying an officer’s employer are met, the designated community-based research organization, after consulting with the Police-Community Relations Council, shall notify the officer’s employer and suggest the need for an intervention. ~~A notice sent under this subdivision is not available to the public.~~

(NOTE - As the purpose of the research organization is to review government employee conduct that may be in need of correction, any notices provided by the organization should be classified as “public” data so they can be obtained by the public, the press, and other interested parties. However, if any “not public” data is contained in the notices - such as data about complaints that is classified as “not public” under Minn. Stat. § 13.43 - that data would be redacted from any notices provided in response to public data requests.)

Suggested changes to lines 6.16 - 6.20:

Subd. 7. **Data classification.** Data received by the designated community-based research organization pursuant to subdivisions 2 and 3 ~~is private data on individuals as defined in section 13.02, subdivision 12,~~ maintains the classification it held at the government entity that provided it, and the data must be maintained according to the statutory provisions applicable to the data. This classification does not restrict the organization’s authority to publish summary data as defined in section 13.02, subdivision 19.

(NOTE - The set of data provided to the organization described in subd. 2 contains both “public” and “not public” data. The individual pieces of data should retain their original classifications when they are maintained by the organization, rather than becoming all “private” (“not public”) when they arrive at the organization. If some pieces of data are “public” at the originating police department, for instance, they should remain “public” once they arrive at the organization.)

Suggested changes to lines 6.21 - 6.28:

Subd. 8. **Public report.** At least annually, the designated community-based research organization shall publish a summary of data submitted pursuant to subdivisions 1 and 2. The board shall make the summary available on the board’s website. The summary shall exclude ~~peace officers’ names and license numbers and any other~~ not public data as defined by section 13.02, subdivision 8a.

(NOTE - The names of peace officers [government employees] are “public” data under Minn. Stat. § 13.43, and would remain public if they were published in a report produced by the organization. “Not public” complaint data would, by statutory requirement, need to be excluded from any summary provided to the public.)