

### 3.8 CLASSIFICATION OF INVESTIGATIVE DATA UNDER MINNESOTA LAW

Under the Minnesota Government Data Practices Act, investigative data is specifically classified for purposes of determining a person's right of access to the data.<sup>1</sup> Under the act, data "collected by state agencies, political subdivisions, or statewide systems as part of an active investigation undertaken for the purpose of commencement or defense of a pending civil legal action, or which are retained in anticipation of a pending civil legal action,"<sup>2</sup> is classified either as protected nonpublic, in the case of data not on individuals, or confidential, in the case of data on individuals. With either classification, the data is not available either to the public or to the subject of the data.<sup>3</sup> Notwithstanding the general classification of investigative data under the Minnesota Government Data Practices Act, the investigative data of a particular unit of government may have a separate statutory classification.<sup>4</sup>

Inactive civil investigative data are public, unless the release of the data would jeopardize another pending civil legal action or the data are classified as not public by other law.<sup>5</sup> Civil investigative data become inactive upon the occurrence of any of the following events: (1) a decision by the government entity or by the chief attorney acting for the government entity not to pursue the civil action; (2) expiration of the time to file a complaint under the statute of limitations or agreement applicable to the civil action; or (3) exhaustion of or expiration of rights of appeal by either party to the civil action.<sup>6</sup>

<sup>1</sup> MINN. STAT. § 13.39 (2014). For a discussion of covered under the Minnesota Government Data Practices Act, see, § 13.2 *infra*.

<sup>2</sup> A "pending civil legal action" is defined as including judicial, administrative, or arbitration proceedings. MINN. STAT. § 13.39, subd. 1 (2014). See generally *Westrom v. Dep't of Labor & Industry*, 686 N.W.2d 27, 33 (Minn. 2004).

<sup>3</sup> An exception is provided if the agency decides that providing access to the data "will aid the law enforcement process, promote public health or safety or dispel widespread rumor or unrest." MINN. STAT. § 13.39, subd. 2 (2014).

<sup>4</sup> See, e.g., MINN. STAT. §§ 13.3805, subds. 1, 3 (epidemiologic and health facility complaint investigations by department of health), 13.41, subd. 4 (investigative data of licensing agencies), 13.46, subd. 3 (investigative data of state welfare system), 13.65 (investigative data of office of attorney general), 13.86, subd. 2 (investigative data of correctional and detention facilities), 626.557, subd. 12b (investigations of maltreatment of vulnerable adults) (2014).

<sup>5</sup> MINN. STAT. § 13.39, subd. 3 (2014).

<sup>6</sup> *Id.* If the government entity or its attorney decides to renew the civil action, data that is inactive because of the occurrence in clause (1) may become active.