

MDH/DPS Protocol Related to Executive Order 20-34

Purpose

It is essential to maintain the health and safety of Minnesota law enforcement, public safety, and first responders who continue to serve our citizens and visitors during the coronavirus disease 2019 (“COVID-19”) pandemic. To do so, these workers must exercise caution that is appropriate to the fact that COVID-19 is widespread in our communities and only a small proportion of those infected have been or can be identified through testing, therefore it is critical to assume that any individual could have COVID-19. In addition to such primary precautions, certain information that is “health data” and classified as “private data on individuals” under the Minnesota Governmental Data Practices Act (“Act”), Minn. Stat. § 13.3805, subd. 1 (b) (3), may need to be disclosed in limited circumstances to dispatchers and to first responders to ensure their safety and the safety of those they serve.

Definitions

“Advisory Statement” – means a statement to be read to first responders and other public safety workers prior to entry into a location with a known “positive COVID-19 case.” No explicit statement will be made in the address record that an individual at the address has tested positive for COVID-19.

“COVID-19” – means the disease caused by the SARS-CoV2 virus.

“DPS” – refers to the Minnesota Department of Public Safety.

“First responders” or “First responders and other public safety personnel” – for the purposes of this protocol, “first responders” or “first responders and other public safety personnel” means emergency medical services personnel, ambulance transport staff, law enforcement personnel, fire responders, fire inspectors, and probation officers and parole agents.

“MDH” – refers to the Minnesota Department of Health.

“Positive COVID-19 case” – refers to individuals so designated by MDH who have a laboratory-confirmed positive test result for COVID-19 and are recommended or ordered to self-isolate. Individuals in congregate settings or who are hospitalized are not included in this definition. Individuals who are no longer directed to self-isolate are not considered “positive COVID-19 cases” for purposes of this protocol.

Background

COVID-19 is widespread in our communities and only a small proportion of those infected have been or can be identified through testing. Currently, there is no vaccine to prevent COVID-19.

- **The best way to prevent illness is to avoid being exposed to this virus.**
- The virus is thought to spread mainly from person-to-person.

- Between people who are in close contact with one another (within about six feet).
- Through respiratory droplets produced when an infected person coughs or sneezes.
- These droplets can land in the mouths or noses of people who are within six feet of the person or possibly be inhaled into the lungs.
- It is also possible that a person can get COVID-19 by touching a surface of object that has the virus on it and then touching their own mouth, nose, or possibly their eyes.
- It is also believed that individuals with COVID-19 can spread the disease without showing any symptoms or having very mild symptoms.
- Due to prevalence of COVID-19 spread among residents and staff of long term care congregate settings such as nursing homes, assisted living, and group homes, first responders should assume the presence of COVID-19 in such settings.

Implementation Context

“Public health data” or “health data” is classified as private health data on individuals under Minnesota Statutes, section 13.3805, subd. 1, para. (b), clause (1) (3), which states:

With approval of the commissioner [of health], health data may be disclosed to the extent necessary to assist the commissioner to locate or identify a case, carrier, or suspect case, to alert persons who may be threatened by illness as evidenced by epidemiologic data, to control or prevent the spread of serious disease, or to diminish an imminent threat to public health.

In Executive Order 20-34 (“EO 20-34”), the Governor has ordered the limited release of health data in connection with law enforcement, first responders and other public safety personnel and the COVID-19 pandemic. EO 20-34 requires various protections which are made operational by this protocol. This protocol is incorporated in the Interagency Agreement for sharing of this data between the Minnesota Department of Health (“MDH”) and Minnesota Department of Public Safety (“DPS”).

Standard Operating Procedure

As part of the Interagency Agreement, this protocol allows MDH to share private health information with DPS. This protocol will go into effect after both parties sign the Interagency Agreement.

MDH will provide via encrypted email to DPS the address MDH has of each “positive COVID-19 case,” which will include:

- House Number
- Street Name
- Street Type (e.g., St, Ave, Rd)
- Applicable Directionals (e.g., N, S, E, W)
- Apartment, Unit, or Suite Number

- City or Township
- County

Following the *Tennessee* warning required by Minnesota Statutes section 13.04, subdivision 2, MDH will request the person to provide address information with sufficient detail to enable DPS to determine its validity. The *Tennessee* warning will advise the person of the purpose and use of collecting their location address. The person may refuse to supply their address.

MDH will not provide an address if the person has not been given a *Tennessee* warning or refused to provide their address.

MDH will provide the name of at least one MDH staff person for DPS to contact in the event an address cannot be verified. The MDH contact person will review the database information and provide clarification when possible.

Procedure for New Data

DPS will subdivide the addresses by jurisdiction and transmit the data via encrypted-email transmission to the appropriate jurisdictional Public Safety Answering Point (“PSAP”) Director or Manager on a daily basis. Emails containing this data will be fully deleted by DPS (*e.g.*, not left in “deleted items” folder) within eight hours of sending and receipt.

Prior to this disclosure, the PSAP director or manager must sign the Confidentiality Agreement Form (Attachment A to this protocol) acknowledging their dispatchers will follow a screening protocol that includes asking, when feasible, a variation of the following questions, if anyone at the call location:

- 1) is experiencing the symptoms associated with COVID-19;
- 2) is COVID-19 positive; or
- 3) has been in contact with someone who is COVID-19 positive.

DPS will maintain a list of PSAPs for which it has verified the execution of the Confidentiality Agreement by the PSAP director or manager. DPS will retain the director/manager-executed Agreements until 30 days after EO 20-34 is rescinded or the peacetime emergency is terminated, whichever occurs first. Upon receipt by the PSAP, specifically selected employees who will be receiving and entering the data must also sign a Confidentiality Agreement (Attachment B to this protocol). The PSAP director or manager shall retain the employee-executed Confidentiality Agreements until 30 days after EO 20-34 is rescinded or the peacetime emergency is terminated, whichever occurs first.

The following “advisory statement” text will be entered by the selected PSAP employees as a premise file entry/informational entry into their Computer Aided Dispatch (“CAD”) systems associated with the addresses provided by MDH:

Advise responders that based on screening and other information, assume the presence of COVID-19 at this address.

PSAPs will relay the advisory statement to a first responder only after exhausting other sources of information (*e.g.*, the screening protocol above) and when a first responder has an emergent need to know the shared data to aid in their infection control precautions. A first responder has an emergent need to know the shared data when the first responder:

1. Is dispatched to a location with an advisory statement entry;
2. Advises the PSAP they are responding to or arriving at a location with an advisory statement entry; or
3. Advises the PSAP they are self-initiating a call for service, attempting to serve legal papers or apprehend a person at a location with an advisory statement entry.

A first responder on scene at a location with an advisory statement may advise subsequent first responders arriving at the location of the advisory statement notification.

The “advisory statement” is the only COVID-19-specific health data from MDH that will be relayed to first responders by the PSAP.

Prior to entry at a location with an advisory statement notification, PSAPs will notify first responders by one of the following methods:

1. Mobile Data Computer (“MDC”) transmission
 - a. 9-1-1 Dispatcher will advise first responders and public safety responder to “check MDC for important information.”
2. By telephone when MDC is not available
 - a. 9-1-1 Dispatcher will advise first responders and public safety responder who does not have an MDC to “call 9-1-1 center for important information.”
3. By radio communications only when neither MDC nor telephone are available to contact the PSAP. Any radio communication that could be monitored by the public or uninvolved parties shall be done using coded language or other similar methods to prevent the public or uninvolved parties from receiving the shared data.

Updating of Data and Deletion of Address Information

Each day, MDH will provide DPS with a “removal of advisory” list of addresses that are no longer “positive COVID-19 cases.” In the same manner used to add the advisory statements, DPS will distribute the “removal” addresses to PSAP managers who will cause the advisory statement to be removed from the premise file entry/informational entry associated with the address. Such removal shall be within eight hours of the PSAP receipt of the removal list from DPS. Removal lists will be fully deleted within 8 hours of sending and receipt.

Any data or residual data not fully deleted or destroyed immediately after use by DPS or a PSAP shall be fully deleted or destroyed immediately upon later discovery that it was not deleted or destroyed. All data must be destroyed the PSAP within 15 days of EO 20-34 being rescinded or the expiration of the peacetime emergency, whichever occurs first.

Summary of the Daily Steps of Data Transmittal, Entry, and Deletion

1. MDH sends two lists to DPS:
 - a. addresses of new “positive COVID-19 cases” for inclusion of the advisory text
 - b. addresses of previously disclosed “positive COVID-19 cases” that are no longer “positive COVID-19 cases” for removal of the advisory text
2. DPS
 - a. DPS breaks the lists down by PSAP jurisdiction
 - b. DPS sends lists of addresses in each jurisdiction to that jurisdiction’s PSAP
 - c. DPS fully deletes the original MDH email and its emails to PSAPs and any other data that captured the addresses (*e.g.*, print out, handwritten notes, spreadsheet, temporary working file)
3. PSAP level
 - a. Enter advisory text in in the address fields corresponding to the list for addition of that text
 - b. Remove the advisory text earlier placed in the address fields corresponding to the list for the removal of that text
 - c. PSAP fully deletes the email from DPS and any other data that captured the addresses (*e.g.*, print out, handwritten notes, spreadsheet, temporary working file)

Penalties

All PSAP employees and first responders shall be advised pursuant to Minnesota Statutes 2019, section 13.09(a), any person who willfully violates the provisions of the Minnesota Government Data Practices Act (MGDPA) or any rules adopted under the MGDPA or whose conduct constitutes the knowing unauthorized acquisition of not public data, as defined in section 13.055, subdivision 1, is guilty of a misdemeanor. In addition, pursuant to Minnesota Statutes 2019, section 13.09(b), willful violation of the MGDPA, including any action subject to a criminal penalty under the previous sentence, by any public employee constitutes just cause for suspension without pay or dismissal of the public employee.