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Legislative Commission on Data Practices

Minnesota State Legislature

Written Testimony by Eric W. Johnson

Hello Members and Staff of the Minnesota Legislative Commission on Data Practices,

Thank you for the opportunity to submit this written testimony.

My name is Eric W. Johnson. I am a resident of Andover, Minnesota, a medically retired United States Marine, and a full-time student at Metropolitan State University studying Advocacy & Political Leadership. I submit this testimony regarding my lived experience with the Minnesota Government Data Practices Act (MGDPA) as it applies when the State relies on contractor-generated polygraph data to exercise coercive and liberty-restricting authority, particularly in Community Corrections contexts.

Polygraph examiners are not licensed or regulated by the State of Minnesota. Instead, Minnesota relies on standards promulgated by the American Polygraph Association (APA), a private professional organization that holds no governmental or regulatory authority.

Polygraphs—commonly referred to as lie detector tests—are referenced four times in Minnesota Statutes (Minn. Stat. §§ 181.75, 181.76, 611A.26, and 609.3456) and twice in Minnesota Rules (Minn. R. 2955.0025 and 2955.0090). Sections 181.75 and 181.76 address employer-employee rights and restrictions; section 611A.26 concerns complainant rights; and section 609.3456 authorizes polygraph use in probation and supervision contexts. The Rules incorporate model policies and standards of practice derived from the American Polygraph Association.

As a result, while polygraphs are expressly authorized and relied upon in coercive State functions—particularly probation supervision—the State has delegated the operative standards governing their administration, interpretation, and reporting to a non-governmental professional association without statutory licensing authority, enforcement power, or public accountability.

Polygraph examinations collect physiological measurements, including heart rate, respiration, and electrodermal activity, which are recorded, analyzed, and memorialized in narrative summary reports. Those reports are then relied upon by the State to make supervision and compliance determinations. Despite this reliance, Chapter 13 does not clearly identify the responsible authority for access to, retention of, or correction of the underlying physiological data or the resulting narrative summaries.

I am currently engaged in a formal accuracy and completeness challenge under Minn. Stat. § 13.04, subd. 4, involving a county community corrections department's reliance on a polygraph narrative summary generated by a private contractor. The county initially denied access to the underlying data and directed me to the contractor, but later produced portions of that same data itself. This sequence reflects a recurring governance failure: government entities rely on contractor-generated data to justify liberty-impacting decisions while disclaiming responsibility by characterizing the data as “contractor data.”

That position conflicts with Minn. Stat. § 13.05, subd. 11, which provides that data created, collected, maintained, or used by a contractor to perform a government function are government data subject to the MGDPA. Contractors lack statutory authority to adjudicate data-subject challenges, resulting in an accountability gap once such data are relied upon by the State.

When government entities rely on contractor-generated data to impose or enforce supervision conditions without clear attribution of responsibility under Chapter 13, data-subject rights become functionally unenforceable. Clarifying responsibility for access, retention, and correction of polygraph data would reduce ambiguity, improve compliance with the MGDPA, and strengthen the integrity of State reliance on such data.

Thank you for your consideration.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke.

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