

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER 22-10**

**Access to Juvenile Justice Data for Program Evaluation
of OAG's Restorative Justice Prosecution Program**

WHEREAS, the Office of the Attorney General for the District of Columbia ("OAG") is the exclusive prosecutor of juvenile crime in Washington, D.C. OAG uses and creates data pertaining to the arrest, charging, programming, and court processing of juvenile delinquency matters in accordance with D.C. Code § 16-2331. OAG is further authorized to utilize juvenile records to monitor recidivism and the efficacy of services provided to youth charged with juvenile offenses pursuant to D.C. Code § 16-2331; and

WHEREAS, in 2017 OAG began to utilize a restorative justice process with traditional juvenile justice prosecution in those cases where the victim of the crime was amenable to doing so and the youth charged with the crime was willing and able to take responsibility for the criminal behavior; and

WHEREAS, OAG has sought the assistance of expert outside researchers to assist in the development of a rigorous program evaluation that will more accurately capture recidivism, victim satisfaction, perceptions of fairness, and behavior change outcomes for OAG's restorative justice prosecution program; and

WHEREAS, in Administrative Order Number 21-01, this Court previously ordered that OAG may share deidentified juvenile case records and law enforcement juvenile records in service of a quantitative research evaluation studying recidivism rates, OAG now seeks authority to enlist researchers at the Urban Institute to do a *qualitative* evaluation of the impact of restorative justice efforts made by OAG on reducing recidivism from 2017 through 2024. A qualitative evaluation will examine which parts of the restorative justice process are effective in reducing crime or may improve prosecutorial decisions.

WHEREAS, OAG has enlisted a research team at the Urban Institute led by Janine Zweig, who will be the principal investigator for the research work. The Annie E. Casey Foundation has agreed to provide funding to the Urban Institute to partner with OAG for this evaluation.; and

WHEREAS, the qualitative research to be done by OAG and the Urban Institute will require administering consensual and confidential surveys to youth and adults who have been impacted by crime, including justice-involved youth, victims of crime, and their respective family members from the start of OAG's restorative justice process in 2017 through 2024. OAG staff will contact any potential survey participant to inquire about their interest in participating in the confidential and consensual survey process, except when the respondent/ defendant is currently represented by counsel. In that case, OAG's staff will contact counsel of the respondent/ defendant who is represented to inquire about their client's interest in participating in the confidential and consensual survey process. Otherwise, for those respondents/ defendants not represented by counsel, OAG will provide an opportunity for them to speak with a pro bono

attorney to discuss whether the client consents to waiving their confidentiality rights involving their juvenile delinquency cases and related confidential information arising therefrom. If a participant agrees to participate in the survey and executes the waiver form, only then will OAG share their contact and other information with Urban Institute researchers to administer the survey; and

WHEREAS, Janine Zweig as well as any of her researchers, staff, and contractors who have access to any juvenile case records or law enforcement records or would be participating in any way with this research evaluation would be required to first undergo a juvenile confidentiality training administered by OAG Senior Counsel, and would be advised that they would be subject to prosecution for any violation of DC Code §§ 16-2331 and 16-2333; and

WHEREAS, all contact information, data and identifying information provided to the researchers will be destroyed by the researchers after five (5) years of the commencement of the evaluation, allowing for time for data collection, time to track recidivism outcomes, and time to clean data sources and write and get feedback on the analysis; and

WHEREAS, to share learnings about the efficacy of restorative justice prosecution with the DC community, District child-serving agencies, and juvenile justice systems in other jurisdictions, OAG and researchers may seek to publish findings of the program evaluation that include only aggregate-level, deidentified data, devoid of any specific identifying information about youth or cases under penalty of law; and

WHEREAS, juvenile justice data utilized by OAG may only be accessed as authorized and pursuant to D.C. Code §§ 16-2331, 16-2333, or through an administrative order from the District of Columbia Superior Court; and

WHEREAS, pursuant to D.C. Code § 16-2331 (2012 Repl.), juvenile case records are confidential, but access may be provided to persons listed in the statute, as well as to “persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of the respondent’s family, or in the work of the Superior Court, if authorized by rule or special order of the court.” D.C. Code § 16-2331 (c)(5); and

WHEREAS, the publication of deidentified analysis of juvenile records has been permitted for the Office of the Chief Medical Examiner Child Fatality Review Board, another District entity authorized to use confidential juvenile records, for the purposes of sharing findings and learnings with the DC community, child-serving District agencies, and the broader national community, https://ocme.dc.gov/sites/default/files/dc/sites/ocme/CFRC_2018.pdf, purposes analogous to those of OAG; and

WHEREAS, the OAG seeks to engage professional criminal and juvenile justice researchers to perform a program evaluation of OAG’s restorative justice prosecution program with the intent of publishing deidentified, aggregate outcome findings on recidivism and other performance measures and outcomes;

NOW THEREFORE, it is hereby

ORDERED, that the Urban Institute may inspect, compile, and analyze the data and information described in the Restricted Data Use Agreement Between the DC Courts and the Urban Institute fully executed on May 25, 2022 (“the DUA”) for the purposes provided in the DUA; and

FURTHERED ORDERED, that OAG staff are authorized to share juvenile case records and law enforcement records of juveniles in the delinquency system with researchers from the Urban Institute for the purposes of a program evaluation of OAG’s restorative justice prosecution program, pursuant to this order; and

FURTHER ORDERED, that aggregate-level, deidentified juvenile justice data used for findings from the OAG restorative justice prosecution program evaluation may be published for general public consumption in order to share learnings of prosecutorial innovations in juvenile justice; and

FURTHER ORDERED, that researchers from the Urban Institute, permitted to view information concerning juvenile case records and/or law enforcement records, shall comply with all limitations pursuant to the restricted data use agreement and this administrative order placed on their viewing, use, and handling of the juvenile confidential information.

FURTHER ORDERED, that neither OAG nor the Urban Institute shall disclose the data and information to any other person or for any other purpose without prior approval of the Chief Judge of the Superior Court of the District of Columbia.

SO ORDERED.

Date: July 11, 2022



Anita M. Josey-Herring, Chief Judge

Copies to:

Judicial Officers
Executive Officer of the Court
Clerk of the Court
Division Directors
District of Columbia Bar
Daily Washington Law Reporter
Library
Rhesha Lewis-Plummer, Assistant General Counsel



DC COURTS
500 Indiana Avenue
Washington, DC 20001



RESTRICTED DATA USE AGREEMENT BETWEEN THE DC COURTS AND

Urban Institute

(Requestor/Requesting Agency)

INTRODUCTION TO THE AGREEMENT:

DC Courts requires recipients of DC Courts data to execute and adhere to the terms and conditions of this Data Use Agreement (hereinafter, Agreement) as a condition to requesting or receiving data (Restricted or Unrestricted) from DC Courts. DC Courts agrees to provide the Requestor with data as identified in this Agreement, in return for the Requestor's agreement to use the data only for purposes that support the Requestor's study, research, or project as specifically described in this Agreement, and in compliance with this Agreement's terms and conditions protecting the integrity, security, and confidentiality of the Restricted Data described in this Agreement.

This Agreement addresses the conditions under which DC Courts will disclose and the Requestor will obtain, use, reuse, and disclose the DC Courts Restricted Data and/or any derivative file(s) that contain personally identifiable information (hereinafter, PII) or data elements that can be used in combination with other data to deduce the identity of any individuals.

This Agreement supersedes any and all agreements between the parties with respect to the use of data and preempts and overrides any prior instructions or communications from DC Courts or any of its components with respect to the data specified herein.

The terms of this Agreement can be changed by the Requestor only by a written agreement with DC Courts, executed subsequent to the execution of this Agreement and prior in time to taking any action at variance with the terms of this Agreement. Any such subsequent written Agreement between the Parties shall be denominated a modification or amendment of this Agreement, or a new superseding Agreement.

I. PARTIES TO AND EFFECTIVE DATES OF THE AGREEMENT:

This Data Use Agreement, effective as of 5/25/22

is between DC Courts and The Urban Institute the Requestor/Recipient/User of Restricted Data (hereinafter, "Requestor"), each of whom is a "Party" and who are collectively, the "Parties" to this Agreement.

This Agreement shall be effective from the date on page 1 of this agreement until 5/25/23 unless terminated sooner with or without cause by either party by delivering written notice of termination to the other party. DC Courts may, at any time and at its sole discretion for any reason, revoke the permission granted herein to the Requestor.

The Requestor shall return to DC Courts or destroy all Data once the stated use subject to this Agreement has been completed, the designated period of use has ended, or the Agreement has been terminated, whichever comes first. The Requestor agrees to destroy all electronic data files being stored at the data use site and submit in writing to the Director, DC Courts Strategic Management Division, that all electronic files have been destroyed.

II. DEFINITIONS:

"Personally Identifiable Information" (PII) is defined as information about an individual that identifies, links, relates, is unique to, or describes him or her, e.g., a social security number; age; military rank; civilian grade; marital status; race; salary; home/office phone numbers; other demographic, biometric, personnel, medical, and financial information; and information that can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, including any other personal information which is linked or linkable to a specific individual.

"Requestor(s)" refers to the primary Requestor(s) who requests, receives, or uses data, and to his or her sponsoring or employing organization; it includes any of said Requestor's employees, agents, contractors, subcontractors, and cooperating individuals. The Requestor executes this agreement.

"Restricted Data" refers to the collection of documentation, internal memoranda, reports or data sets requested of, or provided by, DC Courts that is identifiable to any individual. Restricted data also includes any data with fields or variables that can be aggregated or combined with any other data or information to deduce any individual's identity.

"Unrestricted Data" refers to the collection of documentation, internal memoranda, reports or data sets requested of, or provided by, DC Courts that is not directly identifiable to any individual, and does not contain any fields or variables that can be aggregated or combined with any other data to deduce any individual's identity.

III. PROJECT INFORMATION AND REQUESTED DATA:

A. Project Title: Evaluation of the DC OAG's Restorative Justice Program

B. Legal authority, grant, or Administrative Order if applicable:

- C. Data requested are (check one): Unrestricted Restricted
- D. Purpose of data requested: (Please specifically identify each use of the data, to include linking to other data, publication or intended dissemination)

unded by the Annie E. Casey Foundation (the Foundation) and in partnership with the Office of the Attorney General (OAG) for the District of Columbia, the Urban Institute (Urban) is conducting a process evaluation and qualitative outcome analysis of the OAG’s restorative justice youth diversion program. This study will

- E. Will the data be used for Research, as defined in 45 CFR 46.102? Yes No

- F. Specific data elements requested (to include files, years):

Juvenile name and parent/guardian phone and email address; OAG will provide juvenile's phone and email address for those individuals whose parents signed a consent form. OAG will also provide aggregate data on the sample population.

IV. DATA RIGHTS AND OWNERSHIP:

The Parties agree that DC Courts retains all ownership rights to the data specified herein, and that the Requestor does not obtain any right, title, or interest in any of the data furnished by DC Courts, except as authorized by this Data Use Agreement. Any use not specifically identified in III-D in this Agreement is specifically prohibited unless this Agreement is subsequently modified in writing.

V. DATA ACCESS AND STORAGE:

List the name and title of the individual responsible for receiving, maintaining, transferring, and determining final disposition of the requested data.

Name: Robert Broughman

Title/Role: Director, Security and Chief Security Engineer

List below all individuals or organizations who will be provided access to the data and the location where the data will be used/stored. (Additional lines on page 8)

Individual (Last name, First name)	Affiliation/Role	Location data will be stored
Zweig, Janine	Urban Institute/project team	Urban Institute
Courtney, Leigh	Urban Institute/project team	Urban Institute
Robin, Lily	Urban Institute/project team	Urban Institute
Rowe, Russell	Urban Institute/project team	Urban Institute

VI. PRIVACY AGREEMENT:

The Requestor must initial each condition below to indicate they have read and agree to abide by the following terms:

- RM a. Not to use or reuse or disclose, sell, rent, loan, lease or otherwise grant access to the Restricted or Unrestricted data in any form in any manner except as authorized in Paragraph III-D or V of this Agreement, or as authorized in a written modification/amendment to this Agreement or a new superseding Agreement.
- RM b. That the requested data specified in this Agreement are necessary to achieve the Purposes described in Paragraph III-D, above.
- RM c. Not to disclose direct findings, listings, or information derived from the data file(s), with or without direct identifiers, if such findings, listings or information can, by themselves or in combination with other data, be used to deduce any individual's identity. Examples of such data elements that may lead to deducing an individual's identity include, but are not limited to, name; zip code, gender; date of birth; ethnic origin; or citizenship
- RM d. That any use of DC Courts data in the creation of any document (manuscript, table, chart, study, report, etc.) concerning the purpose(s) specified in this Agreement must adhere to DC Courts' current cell suppression policy. This policy stipulates that no cell in a table that contains a number less than 20 (reflecting the number of occurrences of any compared variables) may be displayed. Also, no use of percentages or other mathematical formulas may be used if they result in a cell less than 20.
- RM e. Not to link records included in the Restricted Data described in this Agreement to any other individually identifiable source of information, except as identified in III-D.
- RM f. Not to identify the individuals, or provide personally identifying information about the individuals who are the subjects of the data.
- RM g. Not to contact the individuals who are the subject of the data except for the purpose as outlined in III-D.
- RM h. To assume responsibility for ensuring compliance with all the requirements for the Human Research Protection Program, as prescribed by 45 CFR Part 46, if the data requested are to be used for human studies.
- RM i. That results of all analysis will not be presented to internal stakeholders and will not be shared publicly (such as conferences, publications, etc.) without notification and advance copy of presentation, report, analyses to the DC Courts.

VII. TERMS AND CONDITIONS ACCEPTED BY THE REQUESTOR:

In consideration of receiving the Restricted Data specified in this Agreement for the specific Purposes described in this Agreement, the Requestor hereby agrees to adhere to the following terms and conditions, and agrees:

- a** To establish appropriate administrative, technical, and physical safeguards to protect the confidentiality of the Restricted Data and to prevent unauthorized use or access to the data.
- b** That the data must not be physically moved, transmitted, or disclosed in any way from the site specified in Paragraph V of this Agreement, or used for any purpose other than as described in Paragraph III of this Agreement, without the prior written approval from DC Courts.
- c** To immediately report to the DC Courts Strategic Management Director and to the DC Courts signatory of this Agreement, or his or her successor or assignee, any unauthorized use, reuse, disclosure, or loss of data files containing Restricted Data or breach of Requestor's security of the Restricted Data. "Immediately report" means within 24 hours of receiving a report of, or otherwise discovering or forming a belief that there has been an unauthorized use, reuse, disclosure, or loss, of Restricted Data or a potential or actual breach of Requestor's security of the Restricted Data.
- d** To assume all costs and liabilities for any breach of personally identifiable information from the Restricted Data files while they are entrusted to the Requestor. If DC Courts determines that the risk of harm requires notification of affected individual persons of the security breach and/or other remedies, the Requestor agrees to provide the notice and remedies without cost to DC Courts.
- e** To return or destroy in a manner approved by DC Courts in writing, all original, copies, and data derived from the restricted data, on whatever media, at the completion of the project described in Paragraph III, or upon expiration or termination of the Agreement, whichever occurs first, within 5 days of said completion, expiration or termination, and to provide a written sworn and notarized notice to DC Courts within 5 days of destruction, attesting to said destruction and providing a description of the manner of that destruction.
- f** Requestor certifies that all materials submitted with this application for restricted data are truthful.

- g** Requestor acknowledges that he/she is legally bound by the covenants and terms and conditions of this Agreement, and that violations thereof may constitute unethical professional practice and/or criminal conduct and may subject Requestor and/or the sponsoring or employing organization, if any, and all his/her/its employees, contractors, subcontractors, and cooperating persons who have been identified in Paragraph V of this Agreement to the sanctions listed above, including criminal prosecution, fines and imprisonment.

- g. Requestor attests that he or she is authorized to bind his or her sponsoring or employing organization, if any, and all his/her/its employees, contractors, subcontractors, and cooperating persons who have been identified in Paragraph V of this Agreement, to all terms and conditions specified herein, including terms that require Requestor to assume financial responsibility for actions inconsistent with this Agreement.

VIII. MODIFICATIONS TO THIS AGREEMENT:

If any changes to information presented in III occur, the Requestor shall provide DC Courts with a copy of the revised plan and a memorandum describing the changes in advance of implementing any revisions. These revisions shall be denominated modifications or amendments to this Agreement, or a new superseding Agreement, and may not be implemented until written approval is received from DC Courts.

IX. UNAUTHORIZED USES, DISCLOSURES, OR VIOLATIONS OF AGREEMENT

If DC Courts determines or has reasonable belief that the Requestor has made a use, reuse, or disclosure of data that is not authorized by this Agreement, or that a breach of security related to DC Courts Restricted Data has occurred or may occur, DC Courts may, at its sole discretion, and prior to any other procedures specified in this paragraph, direct the Requestor to take actions specified in this paragraph. The Requestor hereby agrees to comply with DC Courts' directions. DC Courts may direct the Requestor to: (a) promptly investigate and report to DC Courts the Requestor's findings regarding any alleged or actual unauthorized use, reuse, disclosure or alleged breach of security; (b) promptly resolve any problems identified by the investigation; (c) if requested by DC Courts, submit a formal response to an allegation of unauthorized use, reuse, disclosure or breach of security; (d) if requested by DC Courts, submit a corrective plan with steps designed to prevent any future unauthorized uses, reuses, disclosures or breaches of security; (e) and if requested by DC Courts, return Restricted Data to DC Courts or, at DC Courts' discretion, destroy the data it received from DC Courts under this Agreement in a manner that DC Courts deems appropriate.

If DC Courts determines, after a review of the Requestor's investigation, that the terms outlined in this Agreement have been violated; DC Courts will notify the Requestor of the allegation(s) and its findings in relation to the investigation in writing and will provide Requestor

with an opportunity to respond in writing within 10 days. Upon review, if DC Courts deems the allegations unfounded or incorrect, the data may be returned to the Requestor under the terms of the original or a modified Data Use Agreement. If DC Courts deems the allegations in any part to be correct, DC Courts will determine and apply the appropriate sanction(s).

If DC Courts determines that any aspect of this Agreement has been violated, DC Courts may invoke these sanctions as it deems appropriate, to include, but not limited to:

- a. Denial of all future access to Restricted Data files, and directed return or destruction of Restricted Data in the Requestor's possession;
- b. Report of the violation to the investigator's office responsible for scientific integrity and misconduct, with a request that the institution's sanctions for misconduct be imposed.
- c. If at any time DC Courts believes that criminal laws have been violated, it may refer the matter to the appropriate law enforcement authorities. If DC Courts refers a matter to law enforcement authorities, it will immediately cease providing Restricted Data to the Requestor and take such other action as may be appropriate to prevent further loss, misuse, reuse, or disclosure of Restricted Data, or breach of security, and Requestor hereby consents to cooperate fully with DC Courts' directions.

Name of Requestor Robert Malotte

Title: Evaluation of the DC OAG's Restorative Justice Organization Urban Institute

Street Address: 500 L'Enfant Plaza SW

City Washington State DC Zip Code 20,024

Office telephone 202-261-5316 E-Mail RMalotte@urban.org

Date: 06/13/2022 Signature Requestor 

Section V (cont'd)- Additional Individuals who will have access and location where data will be stored

Individual (Last name, First name)	Affiliation/Role	Location Data will be stored
Mungo, Jeremiah	Urban Institute/project team	Urban Institute
Matei, Andreea	Urban Institute/project team	Urban Institute

X. DC COURTS AUTHORIZATION:

On behalf of DC Courts, the undersigned individual hereby acknowledges that DC Courts supports the Requestor’s request for and use of DC Courts Restricted Data specified in this Agreement in Paragraph III, and agrees to provide the requested Restricted Data to the Requestor in accordance with this Agreement, and agrees to make no statement to the Requestor concerning the interpretation of the terms of this Agreement and to refer all questions of such interpretations or compliance with the terms of this Agreement to the DC Courts Office of General Counsel.

The undersigned represents that he/she is authorized to enter into this Agreement on behalf of DC Courts and to agree to the terms and conditions specified herein.

DC Courts Representative: Lisa VanDeVeer, Director Strategic Management Division

Signature of DC Courts
Representative

Date approved by Executive
Office

X. DC COURTS AUTHORIZATION:

On behalf of DC Courts, the undersigned individual hereby acknowledges that DC Courts supports the Requestor's request for and use of DC Courts Restricted Data specified in this Agreement in Paragraph III, and agrees to provide the requested Restricted Data to the Requestor in accordance with this Agreement, and agrees to make no statement to the Requestor concerning the interpretation of the terms of this Agreement and to refer all questions of such interpretations or compliance with the terms of this Agreement to the DC Courts Office of General Counsel.

The undersigned represents that he/she is authorized to enter into this Agreement on behalf of DC Courts and to agree to the terms and conditions specified herein.

DC Courts Representative: Lisa VanDeVeer, Director Strategic Management Division

Signature of DC Courts
Representative

Date approved by Executive 5/25/22
Office