U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

ICPSR 22642

Assessing Consistency and Fairness in Sentencing in Michigan, Minnesota, and Virginia, 2001-2002, 2004

Brian J. Ostrom
National Center for State Courts

Restricted Data Use Agreement

National Institute of Justice
Data Resources Program

ICPSR

P.O. Box 1248
Ann Arbor, Michigan 48106
www.icpsr.umich.edu

Please include this checklist with your request, completing the top portion.

Requester's Last Name

Organization named

Requester signed

Organizational Representative signed

Tilte of Organizational Representative

Project description included

IRB review documentation included

Data protection plan included

Non-networked computer

Supplemental Staff form included or not needed

Notes *for NACJD use only* **Request ID Number**

Restricted data needed

Data protection sufficient

Signatures appropriate

Research purpose

Application complete

National Archive of Criminal Justice Data
Inter-university Consortium for Political and Social Research
Institute for Social Research
University of Michigan

POLICY REGARDING DISTRIBUTION OF RESTRICTED USE DATA COLLECTIONS AND PRESERVATION OF CONFIDENTIALITY IN ARCHIVAL DATA

The purpose of the National Archive of Criminal Justice Data (the Archive) is to acquire, process, and disseminate computer-readable versions of quantitative criminal justice data files in support of empirical research on crime and criminal justice. The ready availability of such information creates varied opportunities for the diverse application of criminal justice data sets. Moreover, it insures an appropriate return on the substantial investment in original data collections. In short, secondary analysis of criminal justice data provides relatively cost-effective, efficient, and unimpeded opportunities for conducting research, evaluation, policy analysis, or related endeavors.

The sole permitted and intended use of archival data is for statistical analysis of trends, groups, or categories of cases, not for investigations of specific individuals or organizations. Nevertheless, whenever data are made available in convenient and readily accessible form, the possibility of intentional or inadvertent disclosure of confidential or erroneous information on individuals or organizations is present. In recognition of this possibility, the Archive has developed policies designed to insure an appropriate balance between individual privacy and the essential need of the research community for data. The issue of confidentiality applies to a variety of data including personal interviews, observation records, notes and recordings, organizational and institutional data, location or geographic coordinate data, and public records.

The policies of the National Archive of Criminal Justice Data conform to the general policies of the Inter-university Consortium for Political and Social Research (ICPSR) for the preservation of confidentiality, and extend them to deal with problems specific to the nature of criminal justice data holdings. The policies are as follows:

I. As a matter of routine practice, the Archive does not maintain nor create and disseminate public use data sets that contain confidential information. The term "confidential" refers to data that directly identify individuals or organizations or which can be used indirectly or in combination to identify individuals or organizations. Each data set received by the Archive is reviewed for the purposes of identifying information that presents problems of preserving confidentiality.

The Archive staff, in consultation with the principal investigator for the study, identify variables that must be modified to preserve confidentiality. Direct identifiers are usually removed from all data collections. The exceptions include cases in which identification is not

considered detrimental to the individual or organization and does not violate the conditions under which the data were originally collected or obtained by the archive. Other variables that present problems of confidentiality are deleted, aggregated, blanked, masked or otherwise modified. All such changes in the data are noted in the data documentation.

A public use version of the data collection that incorporates all of the above data changes is then prepared for general distribution. The documentation of the public use data collection includes a description of the variables that are masked, a description of the nature of the deletions and modifications, and the revised frequencies for these variables. In addition, the Archive maintains a version of the data collection with the variables in their unmodified state (a restricted use data collection) which can be used for preparing tabulations or for analysis under the conditions described below.

II. The Archive maintains its own version of data collections which contain original variables (known as restricted use data collections) and sometimes entertains requests for data reduction or analysis involving masked variables. The Archive staff judges whether the analytic results preclude the identification of individual records and supplies only those results that do. On occasion, these decisions are made in consultation with the principal investigator in order to insure that original guarantees made to sources or respondents are not violated.

III. The Archive is aware that for some research, neither the publicly available data collection nor staff-generated analyses may suffice. Therefore, researchers with bona fide research interests (as documented in a written research proposal receiving human subjects protection approval from the requester's institution) may request in writing a restricted use data collection using the Restricted Data Use Agreement appearing below. All requests for access to a restricted use data collection are reviewed by the Archive. The Restricted Data Use Agreement includes a statement that the data collection is to be used only by the requester for the sole purpose of statistical analysis, and that appropriate safeguards for security and eventual disposal of the restricted use data collection have been made.

For further information, contact:

Director, National Archive of Criminal Justice Data
Inter-university Consortium for Political and Social Research
Institute for Social Research
P.O. Box 1248
University of Michigan
Ann Arbor, Michigan 48106

Telephone: 1-800-999-0960
E-mail: nacjd@icpsr.umich.edu

Instructions for Preparing the Data Protection Plan

The NACJD Data Transfer agreement requires researchers to include a data protection plan as part of their research proposal (see item 19). This page explains the information that should be included in the plan.

Purpose of the Data Protection Plan: The Data Protection Plan becomes part of the signed agreement between ICPSR and the Restricted Data Investigator(s). If the agreement is executed, all members of the research team with access to the data are contractually obligated to follow all aspects of the Data Protection Plan. The fundamental goal of the protections outlined in this plan is to prevent persons who are not signatories to the Restricted Data Use Agreement or the Supplemental Agreement With Research Staff from gaining access to the data. The agreement will not be executed if the plan is not written with sufficient specificity, or if data protections are not deemed adequate by ICPSR. What should be covered by the plan: The Data Protection Plan applies to both the raw data file received from ICPSR as well as any copies made by the research team, and any new data derived solely or in part from the raw data file. The plan also should address how computer output derived from the data will be kept secure. This applies to all computer output, not only direct data listings of the file.

Components of the plan: Your Data Protection Plan should contain the following components:

- Make reference to Title of Research Project and Principal Investigators.
- List and describe all locations where copies of the data will be kept.
- Describe the computing environment in which the data will be used:
    - Computing platform (PC, workstation, mainframe platform)
    - Number of computers on which data will be stored or analyzed
    - Whether personal computers used in the research project will be attached to a network or will operate independently (stand-alone)
    - Physical environment in which computer is kept (e.g., in room with public access, in room locked when not in use by research staff)
- List and describe how data will be stored: (e.g., on PC hard drive, on removable storage media such as CD, diskettes, or Zip(R) drive.)
- Describe methods of data storage when data are not being used.
- Describe methods of transmitting the data between research team members (if applicable)
- Describe methods of storage of computer output (in electronic form as well as on paper)

Types of protection expected: Although there are alternative ways to assure security for the data and applicants should prepare their plans in a manner that best meets their needs, some or all of the following features are typically found in successful data protection plans:

- Password protection for all files containing data (note that password protection is not regarded as sufficient protection by itself)
- Removable storage media holding the data (e.g., CDs, diskettes, zip disks, etc.) kept in a locked compartment/room when not in use
- Printouts derived from data analysis stored in a locked compartment/room when not in use
- No storage of the data any network, including LANs, Internet enabled, etc.

- No transmittal of data or analysis output derived from the data via e-mail, e-mail attachments, or FTP (either over the Internet, an Intranet system, or within a local area network)
- Use of the data on a dedicated computer kept in a secure room and not connected to a network
- No backup copies of the data to be made
- Data stored in strongly encrypted form

Restricted Data Use Agreement

between the

National Archive of Criminal Justice Data
Inter-university Consortium for Political and Social Research
Institute for Social Research
University of Michigan

and

_____
(Restricted Data Investigator's name—please print or type)

_____
(Receiving Organization —please print or type)

This Agreement is entered into by the National Archive of Criminal Justice Data and ICPSR (the Archive) and _____, the Restricted Data Investigator, consistent with the requirements of Section 28 of the Code of Federal Regulations (CFR) Part 22. Pursuant to the terms and limitations of the Agreement, the Archive agrees to transfer to the Restricted Data Investigator the contents of the restricted use data collection(s) titled

_____ ,

_____ ,

ICPSR study number(s) _____ ,

for the research proposed in the Restricted Data Investigator's proposal submitted with this Agreement.

The research proposal should address the topics and methods of the proposed research, why the restricted data are required instead of the publicly available data, and the procedures to be used to protect the confidentiality of research subjects and the security of the transferred data.

The Restricted Data Investigator and the Receiving Organization understand that the data to be transferred are not to be used to identify persons or organizations and/or the cases of persons or organizations within the meaning of 28 CFR Part 22.

The Restricted Data Investigator and the Receiving Organization agree to the following terms and conditions.

Definition of Terms

1. "Restricted Data" refers to the original restricted data provided by ICPSR and any fields or variables derived from these data, on whatever media they shall exist. (Aggregated statistical summaries of data and analyses, such as tables and regression statistics, are not considered "derived" for the purposes of this agreement.)

2. "Restricted Data Investigator" refers to the investigator who serves as the primary point of contact for all communications involving this Agreement. The Restricted Data Investigator assumes all responsibility for compliance with all terms of this Agreement by employees of the Receiving Organization.

3. "Principal Investigator(s)" refers to the Restricted Data Investigator and any Co-Principal Investigators.

4. "Receiving Organization" refers to the organization employing the Restricted Data Investigator.

5. "Research Staff" refers to any individuals other than the "Restricted Data Investigator(s)" with access to the restricted data.

6. The "Representative of the Receiving Organization" refers to an individual who has the authority to represent your organization in agreements of this sort, such as a Vice President, Dean, Provost, Center Director, or similar official. (Note that a Department Chair is not acceptable unless specific written delegation of authority exists.)

7. "ICPSR" refers to the Inter-university Consortium for Political and Social Research.

Ownership of Data

8. Ownership of restricted data will be retained by ICPSR. Permission to use restricted data by the Restricted Data Investigator(s) and Receiving Organization may be revoked by ICPSR at any time, at their discretion. The Restricted Data Investigator(s) and Receiving Organization must return or destroy all originals and copies of the restricted data, on whatever media it may exist, within 5 days of a written request to do so.

Access to the Restricted Data

9. Access to the restricted data will be limited solely to the individuals signing this agreement and the Restricted Data Investigator's research staff on a "need to know" only basis. The data may not be "loaned" or otherwise conveyed to anyone other than the signatories to this agreement.

10. Copies of the restricted data or any subsequent variables or data files derived from the restricted data will not be provided to any other individual or organization without the prior written consent of the ICPSR.

Uses of the Restricted Data

11. The restricted data will be used solely for the purpose of scientific and public policy research, and not for any administrative, proprietary, or law enforcement purposes.

12. The restricted data will be used to generate only statistical summary information that does not allow any individual, family, household, business, or organization to be identified.

13. The restricted data will be used solely for the research project described in the research proposal attached to this Agreement.

14. No attempt will be made to identify any individual person, family, household, business, or organization. If an individual person, family, household, business, or organization is inadvertently identified, or if a technique for doing so is discovered, the identification or discovery will be immediately reported to ICPSR, and the identification or discovery will not be revealed to any other person who is not a signatory to this agreement.

15. No attempt will be made to link this restricted data with any other dataset, including other datasets provided by ICPSR, unless specifically identified in the approved research proposal attached to this Agreement.

16. Use of the restricted data will be consistent with the receiving organization's policies regarding scientific integrity and human subjects research.

Data Confidentiality Procedures

17. If the Receiving Organization requires a review of research proposed in this Agreement by an Institutional Review Board/Human Subjects Review Committee or equivalent body, the Research Data Investigator certifies that the review has taken place and all approvals have been granted prior to this application for use of the restricted data.

18. The Receiving Organization will treat allegations, by ICPSR or other parties, of violations of this agreement as allegations of violations of its policies and procedures on scientific integrity and misconduct. If the allegations are confirmed, the Receiving Organization will treat the violations as it would violations of the explicit terms of its policies on scientific integrity and misconduct.

19. The Restricted Data Investigator certifies that all aspects of the plan for protecting the confidentiality of the data provided under this Agreement, as detailed in the attached research proposal, will be followed until which time all copies of the restricted data are destroyed.

Destruction of Data Upon Completion of Research Project

20. The Restricted Data Investigator will certify to ICPSR that all originals and copies of the restricted data, on whatever media, will be destroyed at the completion of the research project described in the research proposal attached to this Agreement, or within 5 days of written request from the ICPSR.

Duration of This Agreement

21. This Agreement will go into effect upon approval of the Agreement by ICPSR, and will remain in effect until the completion of the research project, or 24 months from the date this Agreement is accepted by ICPSR, whichever comes first. If, at the end of 24 months, access to the restricted data is still desired, the Restricted Data Investigator must contact ICPSR in writing requesting such continued access. If continued access is denied by ICPSR, or if the Restricted Data Investigator neglects to contact the ICPSR prior to the end of the 24-month period, all originals and copies of the restricted data, on whatever media they exist, must be destroyed by the Restricted Data Investigator.

Post-Approval Modifications to Submitted Materials

22. If changes in research plans or computer environment will alter the information originally submitted as part of this Agreement, the Restricted Data Investigator shall provide the ICPSR with a copy of the revised materials and a memorandum describing the changes in advance of the revisions. These revisions will be considered amendments to this Agreement and may not be implemented until written approval is received from ICPSR.

23. A change in the employer of the Restricted Data Investigator requires the execution of a new Restricted Data Use Agreement, including an updated research proposal that details the plans for the protection of the confidentiality and security of the data. These materials must be approved by ICPSR before restricted data may be accessed at the new place of employment.

24. When research staff join the project (either at its beginning or while in progress), they shall be informed of the necessary procedures to protect the confidentiality and security of the restricted data and shall agree in writing to abide by those procedures. A form for these staff agreements is provided at http://www.icpsr.umich.edu/access/restricted/supplement.html. The Restricted Data Investigator shall maintain these signed agreements until the restricted data have been destroyed pursuant to the terms of this Agreement.

Violation of This Agreement

25. If ICPSR determines that the Agreement may have been violated, ICPSR will inform the Restricted Data Investigator(s) of the allegations in writing and will provide them with an opportunity to respond in writing within 10 days. ICPSR may also, at that time, require immediate return or destruction of all copies of the restricted data in possession of the investigators. Failure to do so will be determined to be a material breach of this

Agreement and, among other legal remedies, may be subject to injunctive relief by a court of competent jurisdiction. If ICPSR deems the allegations unfounded or incorrect, the data may be returned to the Restricted Data Investigator under the terms of the original agreement. If ICPSR deems the allegations in any part to be correct, ICPSR will determine and apply the appropriate sanction(s).

26. If ICPSR determines that any aspect of this agreement has been violated, ICPSR may invoke these sanctions as it deems appropriate:

    1. Denial of all future access to restricted data files.

    2. Report of the violation to the Receiving Organization's office responsible for scientific integrity and misconduct, with a request that the institution's sanctions for misconduct be imposed.

    3. Report of the violation to appropriate Federal and private agencies or foundations that fund scientific and public policy research, with a recommendation that all current research funds be terminated, that future funding be denied to the investigator(s) and to all other persons involved in the violation, and that access to other restricted data be denied in the future.

    4. Such other remedies that may be available to ICPSR under law or equity, including injunctive relief.

Restricted Data Investigator _____ Date_____
(Signature)

Name _____
(Please print or type name and information below)

Address _____

_____

City/ST/Zip _____

Telephone _____

E-mail address _____

****

Receiving Organization

By _____ Date_____
(Signature)

Name _____
(Please print or type name and information below)

Title/Position _____

Address _____

_____

City/ST/Zip _____

Telephone _____

E-mail address _____

****

For the Archive _____(Signature) Date_____

_____(Name)
Director, National Archive of Criminal Justice Data

Approved [ ] Modifications required [ ] Declined [ ]

Restricted Data Use Agreement:
Supplemental Agreement With Research Staff

INSTRUCTIONS: Please submit an original-signature copy of this agreement. (It will be countersigned and a copy returned to you.) Use additional copies of this page if necessary.

The undersigned staff, in consideration of their use of this restricted data certify the following:

1. That they have read the associated Policy and Data Transfer Agreement, and the Data Protection Plan incorporated by reference into this Agreement.

2. That they are "Research Staff" within the meaning of the Agreement (any research staff other than the Restricted Data Investigator).

3. That they will fully comply with the terms of the Agreement, including the Data Protection Plan incorporated by reference into it.

4. That they will not attempt to access this restricted data until approved to do so by ICPSR.

Study Title _____

1) Signature:_____
Date:_____

Typed Name:_____

Title/Formal Affiliation with Research Project:_____

2) Signature:_____
Date:_____

Typed Name:_____

Title/Formal Affiliation with Research Project:_____

The above Research Staff are hereby granted approval to access this restricted data:

_____
Inter-university Consortium for Political and Social Research
Date:_____