

STATE OF MINNESOTA

IN SUPREME COURT

#C4-85-1848

ORDER AUTHORIZING
DISCLOSURE OF
JUVENILE COURT DATABASE
FOR RESEARCH PURPOSES

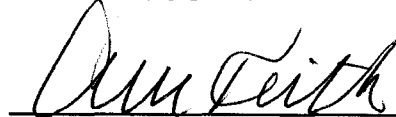
WHEREAS, juvenile justice data base records maintained by the State Court Administrator's Office contain sensitive, confidential information; and

WHEREAS, the United States Department of Justice, National Institute of Justice, Office of Research and Evaluation, ("NIJ/ORE") desires to obtain a copy of certain juvenile justice data base records ("the Records") to perform educational and scientific research, and has agreed in writing not to disclose to any third party any information in the Records from which the identity of any individual or other characteristic that could uniquely identify any individual is ascertainable; and

NOW THEREFORE, pursuant to Rule 2 of the Rules of Public Access to Records of the Judicial Branch, and by virtue of and under the inherent power and statutory authority of the Minnesota Supreme Court to regulate public access to records maintained by the judicial branch, IT IS HEREBY ORDERED that a copy of the Records be made available to the United States Department of Justice, National Institute of Justice, Office of Research and Evaluation, ("NIJ/ORE") subject to the conditions set forth in the May 15, 1996, Nondisclosure Agreement between the NIJ/ORE and the State Court Administrator's Office.

Dated: May 15, 1996

BY THE COURT:



A.M. Keith
Chief Justice

OFFICE OF
APPELLATE COURTS

MAY 15 1996

FILED

NONDISCLOSURE AGREEMENT

THIS AGREEMENT is made and entered into by and between the STATE OF MINNESOTA, STATE COURT ADMINISTRATOR'S OFFICE, 145 Minnesota Judicial Center, 25 Constitution Avenue, St. Paul, MN 55155 ("SCAO") and the UNITED STATES DEPARTMENT OF JUSTICE, NATIONAL INSTITUTE OF JUSTICE, OFFICE OF RESEARCH AND EVALUATION, 633 Indiana Avenue, NW 8th floor, Washington, D.C. 20531 ("NIJ/ORE").

WHEREAS, NIJ/ORE desires to obtain a copy of SCAO's juvenile delinquency and status offense data base records for calendar years 1989 through 1995 ("the Records") for use in analyzing sentencing's impact on drug markets as outlined in the attached NIJ Intramural Research Project Synopsis, dated March 19, 1996; and

WHEREAS, the Records contain sensitive, confidential information that may not be disclosed without the prior approval of SCAO and the Minnesota Supreme Court ("the Court"), and SCAO is willing to submit a request to the Court for disclosure of the Records pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual agreements, promises and covenants contained herein, SCAO and NIJ/ORE hereby agree as follows:

1. EFFECTIVE DATE; TERMINATION. This Agreement is effective as of the date executed by SCAO and shall continue in full force and effect according to its terms. SCAO may terminate this Agreement without prior notice to NIJ/ORE upon any violation or breach of this Agreement by NIJ/ORE or NIJ/ORE's employees. NIJ/ORE may terminate this Agreement at any time by written notice to SCAO. Within ten days of the effective date of any termination of this Agreement, NIJ/ORE shall either return any and all copies of the Records to SCAO or certify in writing to SCAO that any and all copies of the Records have been destroyed. The provisions of sections 1 and 3 through 13 shall survive any termination of this Agreement.

2. RELEASE OF RECORDS. Promptly following the effective date, SCAO shall submit a request to the Court for disclosure of the Records pursuant to the terms and conditions set forth in this Agreement. If the request is approved by the Court, SCAO shall make a copy of the Records available to NIJ/ORE.

3. GUARANTEES OF CONFIDENTIALITY. Subject to section 4 hereof, NIJ/ORE agrees:

a. Not disclose to any third party any information in the Records from which the identity of any individual or other characteristic that could uniquely identify any individual is ascertainable.

b. To take all appropriate action, whether by instruction, agreement, or otherwise, to insure the protection, confidentiality and security of the Records and to satisfy NIJ/ORE's obligations under this Agreement.

c. To limit the use of and access to the Records to NIJ/ORE's bona fide employees whose use or access is necessary to effect the purposes of this Agreement, and shall advise each employee who is permitted access to any of the Records of the restrictions upon disclosure and use contained in this Agreement, and shall require each employee who is permitted access to the Records to acknowledge in writing that the employee has read and understands such restrictions.

d. That, without limiting paragraph 1 of this Agreement, the obligations of NIJ/ORE and its employees with respect to the confidentiality and security of the Records shall survive the termination of this Agreement or their relationship to NIJ/ORE.

e. That, notwithstanding any federal or state law applicable to NIJ/ORE's or NIJ/ORE's employees' nondisclosure obligations hereunder, such obligations of NIJ/ORE and NIJ/ORE's employees are founded independently on the provisions of this Agreement.

4. LIMITATIONS ON NONDISCLOSURE. NIJ/ORE's obligations under section 3 of this Agreement do not apply to information that is accessible to the public pursuant to the Rules of Public Access to Records of the Judicial Branch promulgated by the Court.

5. INJUNCTIVE RELIEF; LIABILITY. NIJ/ORE acknowledges that SCAO will be irreparably harmed if NIJ/ORE's obligations under this Agreement are not specifically enforced and that SCAO would not have an adequate remedy at law in the event of an actual or threatened violation by NIJ/ORE of its obligations. Therefore, NIJ/ORE agrees that SCAO shall be entitled to an injunction or any appropriate decree of specific performance for any actual or threatened violations or breaches by NIJ/ORE or its employees without the necessity of SCAO showing actual damages or that monetary damages would not afford an adequate remedy. NIJ/ORE shall be liable to SCAO for reasonable attorneys fees incurred by SCAO in obtaining any relief pursuant to this Agreement.

6. INDEMNIFICATION. NIJ/ORE agrees to indemnify and save and hold SCAO, its agents and employees harmless from any and all claims or causes of action arising from the performance or breach of this Agreement by NIJ/ORE or by NIJ/ORE's employees.

7. ACCURACY AND USE DISCLAIMER. THE RECORDS DISCLOSED TO NIJ/ORE PURSUANT TO THIS AGREEMENT ARE MAINTAINED BY SCAO FOR PURPOSES OF CASE MANAGEMENT (I.E. MOVEMENT OF CASES FROM ONE POINT IN THE PROCESS TO THE NEXT) AND ARE NOT INTENDED FOR USE IN ANALYZING LEGAL ISSUES INVOLVED IN THE CASES. THE RECORDS DO NOT CONSTITUTE OFFICIAL RECORDS OF THE COURTS OF THE STATE OF MINNESOTA. NIJ/ORE IS SOLELY RESPONSIBLE FOR ASSURING PROPER ANALYSIS, VERIFICATION, AND

INTERPRETATION OF THE RECORDS. SCAO IS UNDER NO OBLIGATION TO ASSIST NIJ/ORE IN THE ANALYSIS, VERIFICATION, OR INTERPRETATION OF THE RECORDS.

8. MUTUAL REPRESENTATION AND WARRANTY OF AUTHORITY. NIJ/ORE and SCAO each represent and warrant to the other that:

- a. It has the full right, power and authority to enter into this Agreement and to perform fully all of its obligations hereunder; and
- b. It is free of any obligation or restriction that would prevent it from entering into this Agreement or from performing fully any of its obligations hereunder; and
- c. It has not entered into and will not enter into any contract which would impede the full performance of its obligations hereunder or would in any way limit or restrict the rights of the other under this Agreement.

9. INDEPENDENT CONTRACTOR. NIJ/ORE is an independent contractor. Neither NIJ/ORE nor NIJ/ORE's employees are or shall be deemed for any purpose to be employees of SCAO. Neither NIJ/ORE nor SCAO shall have the right nor the authority to assume, create or incur any liability or obligation of any kind, express or implied, against or in the name of or on behalf of the other.

10. NON-WAIVER. The failure by either party at any time to enforce any of the provisions of this Agreement or any right or remedy available hereunder or at law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, remedy or option or in any way affect the validity of this Agreement. The waiver of any default by either Party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed.

11. ASSIGNMENT AND BINDING EFFECT. Except as otherwise expressly permitted herein, neither Party may assign, delegate and/or otherwise transfer this Agreement or any of its rights or obligations hereunder without the prior written consent of the other. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, including any corporation or other legal entity into, by or with which NIJ/ORE may be merged, acquired or consolidated or which may purchase the entire assets of NIJ/ORE.

12. GOVERNING LAW, CONSTRUCTION, VENUE AND JURISDICTION. This Agreement shall in all respects be governed by and interpreted, construed and enforced in accordance with the laws of the United States and of the State of Minnesota. Every provision of this Agreement shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this Agreement so construed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this Agreement, and all other provisions shall remain in full force and effect. Any action arising out of or relating to this Agreement, its performance, enforcement or breach will be venued in a state

or federal court situated within the State of Minnesota. NIJ/ORE hereby irrevocably consents and submits itself to the personal jurisdiction of said courts for that purpose.

13. INTEGRATION. This Agreement sets forth the entire Agreement and understanding between the Parties regarding the subject matter hereof and supersedes any prior representations, statements, proposals, negotiations, discussions, understandings, or agreements regarding the same subject matter. Any amendments or modifications to this Agreement shall be in writing signed by both Parties.

IN WITNESS WHEREOF, the Parties have, by their duly authorized officers, executed this Agreement in duplicate.

UNITED STATES DEPARTMENT
OF JUSTICE, NATIONAL INSTITUTE OF
JUSTICE, OFFICE OF RESEARCH AND
EVALUATION

STATE OF MINNESOTA, STATE
COURT ADMINISTRATOR'S OFFICE

By: Edward W. Fedlewski

By: Stu K. Aosal

Title: Director, Criminal Justice
Research

Title: State Court Administrator

Date: 5/8/96

Date: May 15, 1996

**NIJ Intramural Research
Project Synopsis
Project # 96-952001-J
March 19, 1996**

***Mandatory Sentences, Sentencing
Guidelines and their Effects on
Local Drug Markets***

ABSTRACT

Analyses of specific and general deterrence are important for their contributions to understanding how individuals and groups of individuals operating in drug markets respond to the threat of sentencing sanctions. However, what such analyses fail to incorporate is an analysis of changes in *market structure* used to circumvent sentencing sanctions. Such adjustments, which are secondary forms of general deterrence, represent real and enduring costs that sentencing sanctions have imposed on drug trafficking. Mandatory sentencing and guidelines for drug offenses have spread to such an extent that markets have been affected. Improving understanding of how drug markets adjust to sentencing sanctions may point unintended consequences associated with sentencing, may have implications for drug market law enforcement strategies, and may lead to changes in sentencing sanctions that improve their general deterrence effects.

This report will analyze two hypotheses relating to sentencing's impact on drug market structures. It is hypothesized that stricter sentencing has reduced the age of participants in drug markets and that quantity thresholds for sentencing have reduced the average transaction size. Age is expected to decline as a function of severity since younger offenders often face less severe penalties and because they are less likely to have extensive criminal records that increase sentence severity. Transaction sizes are expected to decline because, in certain states, sanctions increase at specified quantity thresholds, providing dealers with the incentive to reduce transactions to a size below the threshold. Additional hypotheses relating to purity and frequency of transactions will be tested if data permit.

PARTICIPANTS

Jack Riley, project director
Christopher Leslie, University of California
Berkeley

DATE INITIATED

October 1, 1995

DATA REQUIRED

Minnesota Sentencing Guidelines Commission
and Supreme Court of Minnesota;
New York Sentencing Guidelines Commission;
Virginia Sentencing Commission;
South Carolina Sentencing Commission

IMPLEMENTATION

Riley and Leslie will be responsible for locating and preparing data. Riley and Leslie will jointly identify subjects, issues and variables to be analyzed. Riley will secure information required from Minnesota and New York. Riley will complete descriptive analyses of data. Riley and Leslie will construct models and complete multivariate analyses.

STATUS

This project does not require resources other than staff time. Exploratory data analysis and model development have commenced.

PRODUCTS

A draft of the final report will be completed by September 1, 1996. A final report, for publication as a *Research in Brief*, will be completed by October 1, 1996.