

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 National Center for Juvenile Justice 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

WHEREAS, sound public policy, reflected in Minnesota Statutes, section 13.05, subdivision 7, supports disclosure of the Records pursuant to a nondisclosure agreement;

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 National Center for Juvenile Justice subject to the conditions set forth in the July 22, 1997, Nondisclosure Agreement between the National Center for Juvenile Justice and the State Court Administrator's Office.

Dated: July 24 , 1997

OFFICE OF
APPELLATE COURTS

AUG 5 1997

FILED

BY THE COURT:



A.M. Keith
Chief Justice

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 NATIONAL CENTER FOR JUVENILE JUSTICE, 710 Fifth Avenue, Pittsburgh, PA 15219-3000 ("NCJJ").

WHEREAS, NCJJ desires to obtain a copy of SCAO's juvenile justice data base records for calendar year 1996 ("the Records") for use in preparing aggregate statistics for government policy makers at the state, local and national level and educational institutions; 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 NCJJ 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 NCJJ upon any violation or breach of this Agreement by NCJJ or NCJJ's employees. NCJJ 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, NCJJ 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 NCJJ.

3. GUARANTEES OF CONFIDENTIALITY. Subject to section 4 hereof, NCJJ 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 NCJJ's obligations under this Agreement.

c. To limit the use of and access to the Records to NCJJ'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 NCJJ and its employees with respect to the confidentiality and security of the Records shall survive the termination of this Agreement or their relationship to NCJJ.

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

4. LIMITATIONS ON NONDISCLOSURE. NCJJ'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. NCJJ acknowledges that SCAO will be irreparably harmed if NCJJ'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 NCJJ of its obligations. Therefore, NCJJ 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 NCJJ or its employees without the necessity of SCAO showing actual damages or that monetary damages would not afford an adequate remedy. NCJJ shall be liable to SCAO for reasonable attorneys fees incurred by SCAO in obtaining any relief pursuant to this Agreement.

6. INDEMNIFICATION. NCJJ 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 NCJJ or by NCJJ's employees.

7. ACCURACY AND USE DISCLAIMER. THE RECORDS DISCLOSED TO NCJJ 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. NCJJ IS SOLELY RESPONSIBLE FOR ASSURING PROPER ANALYSIS, VERIFICATION, AND INTERPRETATION OF THE RECORDS. SCAO IS UNDER NO OBLIGATION TO ASSIST NCJJ IN THE ANALYSIS, VERIFICATION, OR INTERPRETATION OF THE RECORDS.

8. MUTUAL REPRESENTATION AND WARRANTY OF AUTHORITY. NCJJ 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. NCJJ is an independent contractor. Neither NCJJ nor NCJJ's employees are or shall be deemed for any purpose to be employees of SCAO. Neither NCJJ 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 NCJJ may be merged, acquired or consolidated or which may purchase the entire assets of NCJJ.

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. NCJJ 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.

NATIONAL CENTER FOR JUVENILE JUSTICE

By: [Signature]

Title: Director

Date: July 22, 1997

STATE OF MINNESOTA, STATE COURT ADMINISTRATOR'S OFFICE

By: [Signature]

Title: State Court Administrator

Date: July 22, 1997