

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8050 (formerly C4-85-1848)

OFFICE OF
APPELLATE COURTS

JUL 05 2011

FILED

ORDER AUTHORIZING
DISCLOSURE OF
RACE DATA TO BCA
FOR OFP AND DANCO ENFORCEMENT PURPOSES

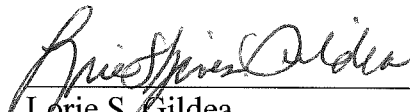
The State of Minnesota, Department of Public Safety, Bureau of Criminal Apprehension (“BCA”) desires to have access to statewide race/ethnicity data that were received from law enforcement, prosecutors, or the order for protection (“OFP”) petition in order for protection matters and in domestic abuse no contact order (“DANCO”) cases (“the Records”). The BCA desires to make the Records available to criminal justice agencies and the FBI via the BCA’s secure networks for purposes of enforcing OFP and DANCO orders. In the Joint Powers Agreement between the BCA and the State of Minnesota, State Court Administrator’s Office (SCAO), signed by SCAO on May 11, 2011 (“the Agreement”), the BCA has agreed that: (1) it will limit disclosure of individually identifiable race/ethnicity data in the Records to criminal justice agencies and the FBI via the BCA’s secure networks for purposes of enforcing OFP and DANCO orders; and (2) except as provided in (1), the BCA will not otherwise disclose to any third party any information in the Records from which the identity or race/ethnicity of any individual or other characteristic that could uniquely identify any individual or their race/ethnicity is

ascertainable. This Court has the inherent power and statutory authority to regulate public access to records maintained by the judicial branch and is fully advised in the premises.

IT IS HEREBY ORDERED that pursuant to Rule 2 and Rule 4, subdivision 1(e), of the Rules of Public Access to Records of the Judicial Branch, the Records shall be made available to the BCA subject to the conditions set forth above and in the Agreement for as long as the Agreement, and any successor agreement that provides essentially the same duties and rights, is in effect.

Dated: July 5, 2011

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Lorie S. Gildea", written over a horizontal line.

Lorie S. Gildea
Chief Justice

STATE OF MINNESOTA JOINT POWERS AGREEMENT

This agreement is between the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension ("BCA") on behalf of criminal justice agencies and personnel around the state and the State of Minnesota, acting through the State Court Administrator's Office ("Court") and on behalf of state trial court personnel (which is included in the reference "employees of Court").

Recitals

Under Minn. Stat. § 471.59, subdivision 10, the BCA is empowered to assist other government entities as necessary. As part of that assistance, the BCA operates the criminal justice data communications network (CJDN) around the state and provides a secure connection to repositories operated by the Federal Bureau of Investigation (FBI). According to Minn. Stat. §299C.46, subdivision 6, orders for protection issued under Minn. Stat. § 518B.01 (OFP) and no contact orders issued under Minn. Stat. § 629.75 (DANCO) must be available via the CJDN to criminal justice agencies. Once an OFP or DANCO is issued by a trial court, Court sends data related to the order to criminal justice agencies around the State of Minnesota and to the FBI via the BCA's secure networks so that the orders can be enforced. To assist with the enforcement of OFP and DANCO orders, Court has agreed to include those data about an individual's race or ethnicity that were received from law enforcement, prosecutors or the OFP petition and further agrees that BCA can make the race or ethnicity data available to criminal justice agencies and the FBI for purposes of enforcing these orders.

Agreement

1 Term of Agreement

- 1.1 *Effective date:* This Agreement is effective on the date the BCA obtains all required signatures under Minn. Stat. §16C.05, subdivision 2.
- 1.2 *Expiration date:* This Agreement expires five years from the date the Agreement is effective.

2 Agreement between the Parties

Court issues two different types of orders for the protection of individuals. The first, the OFP, is the result of a civil proceeding. Violations of an OFP can incur criminal penalties. The second is a DANCO which can be issued during a criminal proceeding. The violation of DANCO can also incur criminal penalties. Court needs to provide data about these orders to criminal justice agencies so that the orders can be enforced.

To assist criminal justice agencies in the enforcement of OFP and DANCO orders, employees of the Court provide several items of data. Court has agreed that when employees of the Court enter data related to those orders, the race or ethnicity of the individual against whom the order is issued will be included but only if the race or ethnicity data were received from law enforcement, prosecutors or the OFP petition as part of the request that the order be issued. The BCA will make all data related to OFP and DANCO orders, including the race or ethnicity data, available via the CJDN and will include the race or ethnicity data in the automatic transfer of data to the FBI for inclusion in the national repository.

Criminal justice agencies utilizing the CJDN will use the race or ethnicity data incorporated into OFP and DANCO files only for the purpose of enforcing those orders. These criminal justice agencies may be found in any state in the United States.

If BCA receives a request for the production of summary data as that term is defined in Minn. Stat. §§13.02, subd. 19 and 13.05, subd. 7, the only data that will be produced will be statistical information derived from the data by the BCA. The responsible authority for the Department of Public Safety agrees not to make the individually identifiable data available to any requester for the purpose of producing summary data.

3 Authorized Representatives

The BCA's Authorized Representative is Dana Gotz, Acting Executive Director, Minnesota Justice Information Services, 1430 Maryland Avenue East, St. Paul, Minnesota, 55016, telephone number 651-793-1007, or her successor.

The Court's Authorized Representative is Sue K. Dosal, State Court Administrator, 135 Minnesota Judicial Center, 25 Rev. Martin Luther King, Jr., Blvd., St. Paul, Minnesota, 55155, telephone number 651- 296-2474, or her successor.

4 Assignment, Amendments, Waiver, and Contract Complete

4.1 **Assignment.** Neither party may assign or transfer any rights or obligations under this agreement without the prior consent of the other party and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this agreement, or their successors in office.

4.2 **Amendments.** Any amendment to this agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.

4.3 **Waiver.** If either party fails to enforce any provision of this agreement, that failure does not waive the provision or its right to enforce it.

4.4 **Contract Complete.** This agreement contains all negotiations and agreements between the BCA and the Court. No other understanding regarding this agreement, whether written or oral, may be used to bind either party.

5 Liability

Each party will be responsible for its own acts and behavior and the results thereof and shall not be responsible or liable for the other party's actions and consequences of those actions. The Minnesota Torts Claims Act, Minn. Stat. § 3.736 and other applicable laws govern liability.

6 State Audits

Under Minn. Stat. § 16C.05, subdivision 5, the BCA's and the Court's books, records, documents, and accounting procedures and practices relevant to this agreement are subject to examination by the Legislative Auditor, as appropriate, for a minimum of six years from the end of this agreement.

7 Government Data Practices

The BCA must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the BCA under this agreement. The Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) and the Court must comply with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court. Both parties acknowledge and agree that the use of and access to other data that are part of OFP and DANCO Orders may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law. The BCA and Court acknowledge and agree that these applicable restrictions must be followed in the appropriate circumstances.

8 Venue

Venue for all legal proceedings out of this agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

9 Termination

The BCA or the Court may terminate this agreement at any time, with or without cause, upon 30 days' written notice to the other party.

1. STATE COURT ADMINISTRATOR

By: Sue Dosal, State Court Administrator
 Signed: [Signature]
 Date: 5/11/11

2. STATE AGENCY

By: [Signature]
 (with delegated authority)
 Title: Acting Executive Director
 Date: May 13, 2011

3. COMMISSIONER OF ADMINISTRATION
delegated to Materials Management Division

By: [Signature]
 Date: June 5, 2011