

MEMORANDUM OF UNDERSTANDING AMONGST THE NEW YORK CITY CRIMINAL JUSTICE AGENCY, THE NEW YORK CITY DEPARTMENT OF PROBATION, AND THE NEW YORK CITY MAYOR'S OFFICE OF CRIMINAL JUSTICE

This Memorandum of Understanding ("MOU") is made and entered into by the New York City Criminal Justice Agency, Inc. ("CJA"), with offices at 52 Duane St, 3rd Floor, New York, NY 10007; the New York City Department of Probation ("DOP"), with offices at 33 Beaver Street, New York, N.Y. 10004; and the Mayor's Office of Criminal Justice ("MOCJ"), with offices at 1 Centre Street, Room 1012N, New York, N.Y. 10007 (each, a "party" and together, the "parties").

Whereas, CJA is collaborating with New York City officials, including MOCJ, to develop, manage and utilize a database ("Juvenile Justice Database" or "Database" or "JJDB") to track and analyze information related to the implementation of the Raise the Age initiative, the City's detention risk assessment instrument, alternative to detention programs, alternative to placement programs, residential placement programs, and various juvenile justice system outcomes (collectively, the "Services"); and

Whereas, CJA and MOCJ have gathered and continue to gather juvenile justice data from various government and not-for-profit agency sources in order to track youth from the start of system involvement through disposition and post system-involvement, and

Whereas, the JJDB is also used to produce standard reports and indicators that aggregate the data and allow the City to monitor juvenile justice system performance and to conduct in-depth analyses to evaluate juvenile justice system reforms, and

Whereas, DOP is the City agency with primary responsibility for the supervision and provision of services to juveniles placed on probation, and maintains data on such services; and

Whereas, in order to obtain data for the JJDB related to activities of juveniles being served by DOP in New York City, CJA and MOCJ will request certain data from DOP,

Whereas, DOP is presently providing the data requested in this MOU, if available, to Vera Institute and, upon execution of this MOU, future or new data sets that have not yet been provided will be provided per the terms of this agreement, if available.

Now, therefore, in consideration of the mutual understanding and goals of the parties to this MOU, the parties agree to the following:

I. Data to Be Shared

A. On a quarterly basis, for each case in which a juvenile delinquent (JD) probation intake was conducted in the previous quarter, the Department of Probation will provide CJA and MOCJ with information concerning the case including the following, if available:

1. DOP Respondent ID (RIN)
2. Probation case ID
3. NYPD arrest number
4. FC docket number
5. DCJS individual ID (NYSID)
6. Last name
7. First name
8. Date of birth
9. Sex
10. Probation officer name at intake
11. Borough of intake
12. Probation intake date
13. Top arrest charge
14. Referred to corp. counsel on same date of intake?
15. Race
16. Risk assessment instrument items
 - a. A1. The youth has an open JD warrant
 - b. A2. The youth has a prior JD or PINS warrant
 - c. A3. An adult did not appear on behalf of the juvenile at probation intake
 - d. A4. The youth's school attendance was less than 30% in the last full semester
 - e. B1. The youth has an unsealed prior arrest
 - f. B2. The youth has an unsealed prior felony arrest
 - g. B3. The youth has a prior JD adjudication
 - h. B4. The youth has a prior designated felony adjudication
 - i. B5. The youth is currently on JD probation
 - j. B6. The youth's school attendance was 80% or more in the last full semester
 - k. C1. Homicide or Attempted Homicide
 - l. C2. Designated Felony
 - m. C3. Possession or Use of Firearm
17. Risk assessment total score

B. For each case with an initial court appearance in the previous quarter, the Department of Probation will provide CJA and MOCJ with information concerning the case including the following, if available:

1. DOP Respondent ID (RIN)
2. Probation case ID
3. NYPD arrest number
4. FC docket number
5. Last name
6. First name
7. Date of birth
8. Arraignment outcome
9. Arraignment borough
10. Arraignment date

C. For each case that was opened for adjustment in the previous quarter, or had an adjustment outcome in the previous quarter, the Department of Probation will provide CJA and MOCJ with information concerning the case including the following, if available:

1. DOP Respondent ID (RIN)
2. Probation case ID
3. NYPD arrest number
4. FC docket number
5. Last Name
6. First Name
7. Date of birth
8. Adjustment start date
9. Adjustment end date
10. Adjustment outcome: completion or terminated and referred to Corporation Counsel

D. For each case that received a final disposition outcome in the previous quarter which included participation in an ATP program operated by a non-profit with which DOP has entered into a contract to provide services, the Department of Probation will provide CJA and MOCJ with information concerning the case including the following, if available:

1. DOP Respondent ID (RIN)
2. Probation case ID
3. NYPD arrest number
4. FC docket number
5. Last Name
6. First Name
7. Date of birth
8. ATP program assignment (AIM; ECHOES; PEAK; or Esperanza)
9. Start Date of Participation in ATP

E. For each case that exited an ATP program operated by a non-profit with which DOP has entered into a contract to provide services in the previous quarter, the

Department of Probation will provide CJA and MOCJ with information concerning the case including the following, if available:

1. DOP Respondent ID (RIN)
 2. Probation case ID
 3. NYPD arrest number
 4. FC docket number
 5. Last Name
 6. First Name
 7. Date of birth
 8. ATP program at exit (AIM; ECHOES; PEAK; or Esperanza)
 9. End Date of Participation in ATP
 10. Outcome of Participation in ATP (successful, unsuccessful)
 11. If outcome was unsuccessful, what happened? (revoked and placed, transferred to another program, etc.)
- F. Data will be transmitted securely, in .csv or SPSS format, using CJA's secure file share server, or a share server agreed upon by CJA and DOP. The exact manner and time(s) for the transfer(s) shall be determined by DOP, MOCJ and CJA.
- G. DOP will retain sole and exclusive ownership of all data which it provides pursuant to this agreement. DOP grants CJA and MOCJ a nonexclusive right to possess and use the data, for the purposes set forth in this Agreement and according to the terms of this Agreement.
- H. Nothing contained in this Agreement shall be construed to grant CJA or MOCJ any rights with respect to the DOP data beyond the terms of this Agreement.

II. Use of Data

A. Matching.

DOP data will be matched to data from the JJDB using identifiers. As further provided in Section III. below, the match will be conducted by designated JJDB administrators, who will be the only people on CJA or MOCJ staff with access to DOP or JJDB identifiers. Once the data match has been completed, identifiers will be stripped and will not be present in the research files.

B. Research and Analysis.

After matching, CJA will use de-identified DOP data to perform research and analysis requested by MOCJ or DOP for the purposes of understanding or supporting ongoing juvenile justice programs or planning new initiatives. Such research and analysis may include (1) assessment or analysis of ATP and Adjustment program outcomes and (2) assessment or analysis of factors that affect decision-making and program participation. CJA will share the results of such analyses, including reports, research files, or other products of the analyses, with the requestor.

C. Access to the JJDB Dataset.

CJA will deliver the JJDB Dataset, reflecting all historical and subsequent data provided, to MOCJ, DOP, and other city agencies that contribute data to the JJDB, for expanded analytical capacity in monitoring and evaluating relevant city reforms in the area of juvenile justice. This file will be stripped of identifiers and sent, in excel format, on a quarterly basis each time new data is imported.

D. Publication and Dissemination.

No party to this Agreement will publish, disclose or disseminate any information, publications or products that contain DOP data to the public or any third party without giving DOP at least fourteen (30) business days to review and to provide feedback and corrections of inaccuracies.

DOP is permitted but not required to provide comments to CJA and/or MOCJ on reports, information, publications or products that it receives. Within 30 business days of receiving such reports, information, publications or products, DOP will inform CJA and/or MOCJ whether or not it intends to comment. If DOP intends to comment, it will send its comments to CJA and/or MOCJ within 45 business days of receiving the reports, information, publications or products. Neither MOCJ nor CJA is under any obligation to alter the results or publication of such reports, information, publications or products in response to DOP comments; however, CJA will make best efforts to provide accurate information in its reporting and publications. In the event that any report or other publication issued by CJA proves to be inaccurate, CJA shall issue a correction and statement to that effect.

III. Confidentiality and Data Security

A. Confidentiality.

All information and data obtained, learned, or developed in connection with this project by any of the parties, including but not limited to all information about probationers provided by the DOP to CJA and MOCJ under this MOU shall be confidential and subject to all of the confidentiality provisions and/or requirements of all Laws and Regulations of the State and City of New York, and shall not be disclosed to any person, organization, agency or other entity except as agreed by the parties.

B. Data Access.

Access to DOP data will be limited to select CJA and MOCJ staff who are working with or maintaining the data for the purposes described in this MOU. CJA and MOCJ will implement procedures to ensure that all files containing DOP data can be accessed only by research staff working on the project and systems and network administrators. CJA and MOCJ systems and network

administrators will have access to files solely for the purpose of backup and recovery; they are not authorized to open, delete, move, or modify files containing DOP data.

DOP data with identifiers will only be accessed by researchers designated as the JJDB Administrators, who will also conduct the match. Once the match is conducted, the Administrator will strip all identifiers (names, respondent ID numbers, and case numbers) from the research file.

CJA and MOCJ staff will access DOP data only through a secure, firewall-protected network and only on computer equipment that is issued, configured, and managed by CJA or MOCJ (i.e. subject to the standards and protocols used by CJA or MOCJ, respectively, for access control and auditing, anti-virus and malware protection, software configuration and versioning, and other security features).

C. Data Maintenance and Destruction.

Upon termination of this agreement and/or request by DOP, all data provided to CJA and MOCJ under this MOU shall be permanently removed from CJA and MOCJ's networks and from all CJA and MOCJ equipment and either returned to DOP or destroyed. Acceptable means to destroy removable storage media containing confidential information by physically shredding the media or by forensically wiping the media.

D. Disclosing Identifiable Data.

No party to this Agreement will disseminate or disclose identifiable information provided by another party to any other organization or individual other than those explicitly identified in this Agreement, without first obtaining permission from the party providing the identifying information. Any and all reports or publications produced with DOP data will present only anonymized aggregated data. If CJA receives a court order to disclose identifiable information provided by DOP, CJA will send DOP and MOCJ a copy of that order.

E. CJA shall comply with the provisions of the Internet Security Breach and Notification Act (New York State Technology Law §208). In addition, CJA shall promptly notify DOP where there is reasonable belief of a breach of security, unauthorized access or unauthorized release of personal computer Data containing provided personal information regardless of whether or not notification is required under the Internet Security Breach and Notification Act. CJA shall be responsible for any costs and expenses incurred arising from its own negligent and willful acts, including any costs and expenses of DOP to comply with the notification requirements under the Internet Security Breach and Notification Act or any other notification required by law.

F. CJA agrees that if it or any of its employees or agents breach, or threatens to breach this Agreement, in addition to having any engagement terminated, DOP shall have all equitable and legal rights (including the right to obtain injunctive relief) to prevent such breach and/or to be fully compensated (including reasonable attorneys' fees) for losses or damages resulting from such breach. CJA acknowledges that compensation for damages may not be sufficient and that injunctive relief to prevent or limit any breach of confidentiality may be the only viable remedy to fully protect the confidential information. CJA further understands and agrees that the confidentiality and security obligations of this Agreement shall survive any term of this Agreement, and CJA will abide by the terms of this confidentiality and security obligations of this Agreement in perpetuity.

G. **Insurance.** CJA shall at all times during the term of this Agreement keep in full force and effect and shall maintain and pay all premium costs for the following insurance coverages in amounts not less than specified herein and shall furnish DOP with Certificates of Insurance evidencing compliance with the following provisions: Commercial General Liability insurance for limits of not less than \$1,000,000.00 per occurrence for bodily injury (including death) and property damage, and \$1,000,000 for personal and advertising injury, covering operations under this Agreement. Such Commercial General Liability insurance shall include the City of New York, together with its officials and employees as an Additional Insured.

IV. Modification

This MOU may be amended only as mutually agreed upon in writing, signed by the authorized representatives of the parties. It may not be altered, modified, rescinded or extended orally.

V. Term and Termination

This MOU shall become effective upon the full execution by all parties. The MOU shall remain in effect until it is terminated in any of the following ways:

1. by any party upon 30 calendar days written notice to the other parties;
2. immediately, by mutual consent of all parties; or
3. by any party for cause upon the material default of another party in the performance of the terms and conditions of this Agreement, after the party has been given 30 calendar days to cure the default, if cure is possible. If the default is not cured, this MOU will terminate upon provision of written notice which must include the reason(s) for the termination.

Terms of this Agreement, which by their nature would need to survive the expiration or other termination of this Agreement, including terms of Sections II

and III shall survive the expiration or other termination of this Agreement.

VI. Contact

Any press inquiries regarding this data analysis project or any notices or request hereunder by either party shall be in writing and directed to the address of the parties as follows:

New York City Department of Probation
33 Beaver Street
New York, New York 10004
Attention: Nancy Andiloro

New York City Criminal Justice Agency, Inc.
52 Duane St, 3rd Floor
New York, NY 10007
Attention:

Mayor's Office of Criminal Justice
1 Centre Street, Room 1012N
New York, N.Y. 10007
Attention:

VII. Entire Agreement

This MOU contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.

[Remainder of page intentionally left blank; signature page to follow.]

THE FOREGOING IS UNDERSTOOD, ACCEPTED AND AGREED TO BY DOP, CIA, AND MOCI.

New York City Department of Probation

Print Name: Margaret M. DiGiovanna

Title: First Deputy General Counsel

Signature: *Margaret M. DiGiovanna*

Date: *October 10, 2018*

MAYOR'S OFFICE OF CRIMINAL JUSTICE

New York City Criminal Justice Agency

Print Name: *Susan L. Sommer*

Title: *General Counsel*

Signature: *[Signature]*

Date: *10-15-18*
New York C. Criminal Justice Agency

Mayor's Office of Criminal Justice

Print Name: *Aubrey Fox*

Title: *Executive Director*

Signature: *Aubrey Fox*

Date: *10-15-18*