

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER 21-01**

**Special Order for Access to Juvenile Justice Data for Program Evaluation of OAG's
Restorative Justice Prosecution Program**

WHEREAS, the Office of the Attorney General for the District of Columbia (“OAG”) prosecutes delinquent acts in Washington, D.C. OAG uses and creates data pertaining to the arrest, charging, programming, and court processing of juvenile delinquency matters. OAG is further authorized to utilize juvenile case records to monitor recidivism and the efficacy of services provided to youth charged with juvenile offenses pursuant to D.C. Code § 16-2331 (2020 Supp.); and

WHEREAS, OAG is committed to evaluating the outcomes of its programs and practices to improve the efficacy of prosecutorial decision-making to ensure that youth in the juvenile justice system, victims, and residents of the District are well served by the juvenile justice system. Moreover, OAG is committed to sharing information throughout the D.C. community, child-serving District agencies, and the broader national prosecution community about innovative programming that may better serve youth in the juvenile justice system and victims; and

WHEREAS, in 2017 OAG began to utilize a restorative justice process with traditional juvenile justice prosecution in cases where the victim of the delinquent act was amenable to doing so and the youth charged with the delinquent act was willing and able to take responsibility for the delinquent behavior. Where both parties are amenable, OAG’s trained restorative justice facilitators prepare the victim, charged youth, and their respective guardians and supporters for a facilitated dialogue regarding the delinquent act, including what happened, how the parties were impacted, and what needs to happen to prevent the situation from happening again. In addition, a restorative justice prosecution program may provide willing victims with greater voice and agency regarding their victimization, and help charged youth build empathy, consequential-thinking and problem-solving skills; and

WHEREAS, OAG sought to evaluate the impact of restorative justice prosecution in 2020 by doing an internal comparative data analysis of youth who participated in restorative justice over a two-year period between 2017 and 2019 and youth charged with similar offenses who did not participate in restorative justice. While that internal data analysis showed a 15 percentage point decrease in recidivism among youth who participated in restorative justice prosecution, researchers were unable to demonstrate a direct correlation between participation and any positive outcome.

WHEREAS, OAG seeks the assistance of expert researchers to assist in the development of a rigorous program evaluation of youth participating in restorative justice prosecution that will more accurately capture recidivism, individual growth and victim satisfaction outcomes for OAG’s restorative justice prosecution program; and

WHEREAS, researchers Professor Miguel de Figueiredo of University of Connecticut School of Law, and Professor Dane Thorley, of Brigham Young University School of Law, both experts in criminal justice and rule of law research, will assist OAG in performing an evaluation design and data analysis of de-identified juvenile data collected from OAG's restorative justice prosecution program.

WHEREAS, all confidential juvenile records analyzed in the restorative justice prosecution program will be protected through a de-identification process overseen by OAG data specialists that entails the creation of unique, randomly-selected identifiers for every juvenile matter in the evaluation such that data shared with the researchers could not be traced back to any youth's identifying information or case identifying information. Moreover, in a data sharing agreement, the researchers agree to destroy all data after 8 years of the commencement of the evaluation, allowing for time for data collection, time to track recidivism outcomes, and time to clean data sources and write and get feedback on the analysis; and

WHEREAS, to share information about the efficacy of restorative justice prosecution with the DC community, District child-serving agencies, and juvenile justice systems in other jurisdictions, OAG and researchers may seek to publish findings of the program evaluation that include only aggregate-level, de-identified data, devoid of any specific identifying information about youth or cases under penalty of law; and

WHEREAS, record-level, de-identified juvenile case record and law enforcement record data utilized by OAG may only be shared as authorized and pursuant to D.C. Code §§ 16-2331, -2333 (2020 Supp.) and Super. Ct. Juv. R. 55; and

WHEREAS, pursuant to D.C. Code § 16-2331 (2020 Supp.), juvenile case records are confidential, but access may be provided to persons listed in the statute, as well as to "persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of the respondent's family, or in the work of the Superior Court, if authorized by rule or special order of the court." D.C. Code § 16-2331(c)(5); and

WHEREAS, pursuant to D.C. Code § 16-2333 (2020 Supp.), juvenile law enforcement records are confidential, but access may be provided to persons listed in the statute, as well as to "[a]ny other person, agency, or institution, by order of the court, having a professional interest in the child or in the work of the law enforcement department." D.C. Code § 16-2333(b)(5); and

WHEREAS, OAG seeks to engage professional criminal justice researchers to perform a program evaluation of OAG's restorative justice prosecution program with the intent of publishing de-identified, aggregate outcome findings on recidivism and other performance measures;

NOW THEREFORE, it is hereby

ORDERED, that OAG is authorized to share only de-identified juvenile case records and law enforcement records of juveniles in the delinquency system with Professor Miguel de

Figueiredo and Professor Dane Thorley for the purposes of program evaluation of OAG's restorative justice prosecution program; and

FURTHER ORDERED, that researchers Professor Miguel de Figueiredo, Professor Dane Thorley, and authorized personnel associated with the professors are permitted to view de-identified information concerning juvenile case records and law enforcement records through this special order and they must comply with all limitations placed on their viewing, use, and handling of the juvenile confidential information; and

FURTHER ORDERED, that aggregate-level, de-identified data from juvenile case records and law enforcement records used for findings from the OAG restorative justice prosecution program evaluation may be shared with the institutional review boards from their respective universities; and

FURTHER ORDERED, that OAG may publish any findings produced by Professor Miguel de Figueiredo and Professor Dane Thorley, which may include aggregate-level, de-identified data from juvenile case records and law enforcement records but shall not contain any information from which it would be possible to identify any party, witness, social worker, judicial officer, or other person contained or mentioned in the juvenile records; and

FURTHER ORDERED, that any request to distribute or disclose the aggregate-level, de-identified data from juvenile case records and law enforcement records for purposes other than the program evaluation performed by Professor Miguel de Figueiredo and Professor Dane Thorley must be approved by the court.

SO ORDERED.



Date: March 4, 2021

Anita M. Josey-Herring, Chief Judge

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