mdrc
BUILDING KNOWLEDGE TO IMPROVE SOCIAL POLICY

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Bret Barden
Research Associate, MDRC
February 21, 2019

Judge Jay Leach
Chair, Data Dissemination Committee
c/o John Bell, Contracts Manager, Administrative Office of the Courts
Olympia, WA

Dear Judge Leach,

I am writing to request a change to the standard language currently in a draft data sharing agreement between the Washington State Admirative Office of the Court (AOC) and MDRC. MDRC is an independent, non-partisan, not-for-profit research company that builds knowledge to improve social policy and the lives of low-income individuals, families, and children. We are currently working with Yakima County to assess the impacts of changes they have implemented to pretrial processes in their criminal courts. This research is funded by Arnold Ventures (formerly The Laura and John Arnold Foundation).

Of course, court data from the AOC is crucial for the analysis our work will require. To that end, we greatly appreciate the time and efforts of Mr. John Bell, others within the AOC, and the Data Dissemination Committee (DDC) in drafting the data sharing agreement to allow for MDRC's access to this data. We respectfully ask that the AOC consider and approve one additional change to the data sharing agreement (underlined and bolded):

> "14.1 Provide AOC with a copy of any report generated from this research project 60 days prior to publication with the opportunity for AOC to object to the use of its data in the report; however, any objection must be reasonable and rationally based **on a concern about the confidentiality protections for participants as described in this Agreement.** If such objection is made the data and any related findings shall be removed from the report."

We request this clarifying language be added to ensure the objectivity and independence of our research. Since MDRC's founding in 1974, independence and objectivity in our research have been the bedrock and hallmark of our organization. They are essential to building trust with the policymakers and practitioners who regularly rely on our research findings to improve public policy. Even the mere perception of bias or alteration of results could erode the confidence and trust that are so critical to our ability to deliver sound, unbiased research findings to inform the creation of social policy.

Without the additional language that we propose, the standard language states that "reasonable and rationally based" objections to the use of the data contained in a report will result in the findings being removed from the report. The broad language provides no guidance on the criteria for what constitutes a "reasonable and rationally based" objection. Accordingly, MDRC is concerned about the extent to which it could risk diminishing its research independence by entering the data sharing agreement, as it stands; any number of objections could be said to be "reasonable and rationally based" and thereby result in removal of research findings in MDRC's report. This would undoubtedly raise doubts about MDRC's objectivity and integrity.

The additional language we propose specifies that a "reasonable and rationally based" objection be defined as one that is grounded in a concern for the confidentiality of participants, that which constitutes an objective misuse of these data. Were the AOC to accept this proposed language, it would review MDRC's report findings to ensure that the presentation of research results could not potentially lead to the identification of individuals in the study sample or a loss of confidentiality. These concerns are consistent with the confidentiality protections the data sharing agreement already contains.

We understand that the current data sharing agreement language likely stems from a concern about the misuse of the court data. But we want to assure you that MDRC has decades of experience processing and analyzing criminal justice data and established protocols to ensure the quality and accuracy of our analyses. On this Yakima project, in particular, our project director has two decades of experience working with criminal justice data, and the data management lead for regular data processing and analysis efforts has nearly a decade of experience with criminal justice data. We work very closely with data providers and jurisdictions in an interactive process to ensure that we understand the data with which we are working and that the creation of our analysis files and outcome measures are accurate and reliable. In addition, we have extensive fact-checking procedures as a final check on the quality of our measures and findings, wherein analyses are checked independently by staff who were not the author of the analysis.

Thank you for considering this proposed change. If you have any questions, please do not hesitate to reach me at either 212-340-8697 or bret.barden@mdrc.org.

Sincerely,

Bret Barden

Bret Barden