

AGREEMENT

THE GRANTEE AND GRANTOR (AS SET FORTH BELOW) HEREBY AGREE AS FOLLOWS:

DATE: November 13, 2018

GRANT NO.: 18-1805-153062-CJ

GRANTEE: City & County of San Francisco
d/b/a San Francisco District Attorney Office
850 Bryant Street
RM 322
San Francisco, CA 94103
("your organization")

GRANTOR: John D. and Catherine T. MacArthur Foundation
140 South Dearborn Street, Suite 1200
Chicago, Illinois 60603-5285
(the "Foundation")

GRANT AMOUNT: U.S. \$2,000,000

PURPOSE OF GRANT: To support San Francisco's participation as an implementation site in the Safety and Justice Challenge, the Foundation's criminal justice reform initiative to reduce over-incarceration by changing the way America thinks about and uses jails (the "Purpose")

FOR USE OVER THE PERIOD: October 1, 2018 - September 30, 2020

EXPECTED PAYMENT SCHEDULE: This grant is expected to be paid in the following installment amounts (the "Payment Schedule"):

| | |
|----------------------|--|
| Initial Installment: | U.S. \$250,000, paid in a single lump sum, subject to the terms set forth in Paragraph 1(B) herein |
| Installment 2: | U.S. \$750,000, paid in a single lump sum, subject to the terms set forth in Paragraph 1(C) herein |
| Installment 3: | U.S. \$1,000,000, paid in a single lump sum, subject to the terms set forth in Paragraph 1(D) herein |

WRITTEN REPORTS DUE, as may be amended from time to time upon written authorization from the Foundation (the "Due Dates"):

| | |
|--------------------|---|
| December 31, 2018: | Interim Report, as further described in Paragraph 1(C) herein |
| November 30, 2019: | Annual Report, covering the period October 1, 2018 through September 30, 2019 |
| November 30, 2020: | Annual Report, covering the period October 1, 2019 through September 30, 2020 |
| November 30, 2020: | Final Report, covering the period October 1, 2018 through September 30, 2020 |

OTHER TERMS AND CONDITIONS:

1. PAYMENT TERMS: (A) Payment of the grant funds is expected to be made as indicated in the Payment Schedule above, *provided* your organization is in compliance with all terms and conditions of this agreement at the time of each scheduled payment.

(B) The initial installment of the grant funds will be made within thirty (30) days after receipt by the Foundation of a fully-executed copy of this agreement and all necessary tax documents if all conditions are satisfied. The scheduled dates of estimated payment for any subsequent installments, which dates may be amended by the Foundation from time to time, are available in the Foundation's online Grants Management System ("GMS").

(C) Payment of the second installment and all subsequent installments of the grant funds are contingent upon the Foundation's receipt and approval, in its sole discretion, of the Interim Report, as described

herein. Your organization's Interim Report should include a copy of a fully-executed Data Use Agreement ("DUA"). If your organization has not entered into the DUA by the date the Interim Report is due, your organization shall include, in such Interim Report, a narrative describing your organization's good faith efforts toward finalizing the DUA, including when the DUA is expected to be fully-signed. The DUA is a comprehensive agreement between your organization and the City University of New York's Institute for State and Local Governance regarding the disclosure, maintenance, and use of the criminal justice-related information that your organization will provide, as part of the Safety and Justice Challenge. A draft of the DUA, in a form substantially similar to what your organization will be asked to sign, is attached hereto and incorporated herein as Exhibit 1.

(D) Payment of the third installment of the grant funds is contingent upon the Foundation's receipt and approval, in its sole discretion, of (i) the Interim Report and (ii) the annual report specified in the Due Dates above and described in Paragraphs 4(A) and 4(B) below. If the fully-executed DUA was not included in the Interim Report, payment of the third installment of the grant funds shall also be contingent on the Foundation's receipt of a fully executed DUA, which DUA should be included in the Interim Report in GMS.

2. **BANK ACCOUNTS:** Grant funds shall be deposited in an interest-bearing account whenever feasible. Any grant funds, and income earned thereon, not expended or committed for the purposes of the grant, will be returned to the Foundation.
3. **USE OF FUNDS:** (A) Under United States law, Foundation grant funds, and income earned thereon, may be expended only for charitable, religious, scientific, literary or educational purposes. This grant is made only for the Purpose stated above. It is understood that these grant funds will be used only for such Purpose, substantially in accordance with the document uploaded into GMS by the Foundation on October 15, 2018 and entitled "Final Proposal 153062", and the budget uploaded into GMS by your organization on October 15, 2018, relating thereto (the "**approved budget**"), subject to the terms of this agreement. Your organization agrees to obtain the Foundation's prior approval in writing should there be any material changes or variances to the approved budget, including the timing of expenditures, at any point during the course of this grant.

(B) Your organization confirms that this project is under its complete control. Your organization further confirms that it has and will exercise control over the process of selecting any secondary grantee or consultant, that the decision made or that will be made on any such selection is completely independent of the Foundation and, further, that there does not exist an agreement, written or oral, under which the Foundation has caused or may cause the selection of a secondary grantee or consultant.

(C) **RESTRICTIONS ON USE OF FUNDS:** (1) In connection with the activities to be funded under this grant, your organization acknowledges that it is responsible for complying with all relevant laws and regulations of the countries in which such activities are conducted.

(2) Your organization hereby confirms that Foundation grant funds will not be used to carry on propaganda, to lobby or otherwise attempt to influence legislation or to conduct any activities described in Sections 4945(d)(1) and (e) of the United States Internal Revenue Code and the Treasury Regulations thereunder. Your organization further confirms that the primary purpose of undertaking the work described in your organization's proposal is not for use in lobbying. For your information, enclosed is a summary of the types of activities prohibited under Section 4945(d)(1) of the United States Internal Revenue Code. Further questions regarding impermissible activities should be directed to your organization's tax or legal advisor.

(3) Your organization agrees that Foundation grant funds will be used in compliance with all applicable anti-terrorist financing and asset control laws, regulations, rules and executive orders, including but not limited to, the USA Patriot Act of 2001 and Executive Order No. 13224.

4. **WRITTEN REPORTS:** (A) Written reports are to be furnished to the Foundation covering each year, or partial year in the instance of the Interim Report, in which your organization receives or expends any portion of the grant funds until the Foundation's grant funds, and any income earned thereon are expended in full or the grant is otherwise terminated. The written reports for this grant are due no later than the Due Dates specified on Page 1 of this agreement. The written reports should be submitted electronically through GMS.

(B) The annual and final written reports should contain a narrative and financial account of what was accomplished by the expenditure of the grant funds during the period covered by the report. The narrative account should contain a detailed description of what was accomplished by the grant,

including a description of the progress made toward achieving the goals of the grant and an assurance that the activities under the grant have been conducted in conformity with the terms of the grant. The financial account should contain a financial statement reporting, in U.S. dollars, all expenditures of the grant funds and any income earned thereon during the period covered by the report.

5. **INTELLECTUAL PROPERTY:** (A) In countersigning this agreement, your organization acknowledges that it has read the Foundation's Policy Regarding Intellectual Property Arising Out of Foundation Grants (the "**Policy**"; Attachment I hereto). Except as may otherwise be provided herein, all copyright interest in materials produced as a result of this grant (the "**Grant Work Product**") shall be owned by your organization and made available consistent with the terms of the Policy. To effect the widest possible distribution of the Grant Work Product and to ensure that it furthers charitable purposes and benefits the public, your organization hereby grants to the Foundation a non-exclusive, transferable, perpetual, irrevocable, royalty-free, paid-up, worldwide license to use, display, perform, reproduce, publish, copy, and distribute, for non-commercial purposes, the Grant Work Product and any other work product arising out of or resulting from your organization's use (including digital, electronic or other media) of these funds, including all intellectual property rights appurtenant thereto, and to sublicense to third parties the rights described herein. Without limiting the foregoing, such license includes the right of the Foundation to publish the Grant Work Product on the Foundation's website in connection with the Foundation's work with and support of your organization, and for use in periodic public reports, press releases, and fact sheets about the Foundation's grantmaking. Your organization further acknowledges and agrees, at the Foundation's request, to execute any additional documents necessary to effect such license.

(B) To the extent that, as part of any arrangement with any subcontractor, subgrantee, or other party working on matters related to this grant and receiving the benefit of the grant funds (a "**Third Party**"), the intellectual property rights in the Grant Work Product is to be owned by such Third Party, your organization agrees to require that the Foundation be granted a license in such Grant Work Product in a form reasonably acceptable to the Foundation.

(C) Except as stated in Paragraph 5(A) herein, and as you may be otherwise notified by the Foundation, it is the Foundation's policy not to ordinarily use the license granted herein if the Grant Work Product is otherwise made widely available through a means and on terms (including any cost to the public and timeliness of publication) satisfactory to the Foundation. Under the Foundation's Policy, the Foundation will consider also releasing such license at the request of your organization if it is demonstrated to the Foundation's satisfaction that such release is necessary in connection with a publication or distribution plan that will make the Grant Work Product widely available at a reasonable or little cost, such as through scholarly publication, open access journals, or use of a suitable Creative Commons license.

(D) In connection with the narrative reports required to be submitted in the GMS under this agreement, your organization will be required to address a series of questions related to intellectual property that are available on the narrative report form in the GMS.

6. **USE OF NAME:** Your organization acknowledges that the name and mark "John D. and Catherine T. MacArthur Foundation" and all variations thereof and any other names and marks comprising the name or mark "MacArthur" (the "**MacArthur Name**"), are the sole and exclusive property of the Foundation, that any and all uses of the MacArthur Name by your organization shall inure solely to the benefit of the Foundation, and that your organization shall not acquire any right, title or interest in any MacArthur Name. All uses of any MacArthur Name by your organization in any manner shall be subject to inspection by and approval of the Foundation, which approval may be granted or withheld in the sole and absolute discretion of the Foundation. Upon termination of this agreement, or at the request of the Foundation at any time, your organization shall immediately discontinue and forever thereafter desist from any and all use of any MacArthur Name and shall either destroy or deliver to the Foundation, at no charge to the Foundation, stationery, brochures, proposed paid media and other similar materials bearing any MacArthur Name that then are in the possession or control of your organization.
7. **PUBLICATIONS:** Two copies of any publications produced or disseminated wholly or in part with these grant funds will be furnished to the Foundation. Unless otherwise notified by the Foundation, such publications should include a simple acknowledgment of the grant support from the Foundation.
8. **NOTIFICATION:** Your organization will promptly notify the Foundation upon the occurrence of any of the following: (i) A change in the executive director, chief executive officer, president, or comparable senior level executive of any agency that is engaged materially in the activities funded by the Foundation

("Agency"); (ii) receipt by the Agency of notification by another significant funder, if any, that the funder is ceasing further funding; or (iii) unless prohibited by court or agency order, the filing of a claim in any court or federal, state, or local agency alleging (a) sexual or other harassment, discrimination, a hostile work environment, or similar claims regarding the activities of the Agency; (b) financial impropriety by the Agency; or (c) breach of fiduciary obligations by senior leadership or the board of the Agency. Written notification will be given to the signatory of this agreement at the e mail address under the signature line below.

9. **WORKPLACE CONDUCT STANDARDS:** (A) Your organization represents that it aspires to a tolerant and civil workplace, one that is free of discrimination, harassment, and misconduct of any kind. Your organization further represents that it has in place or is committed to putting in place policies, procedures, or practices that will help ensure a tolerant and civil workplace, including the following: Staff training regarding workplace misconduct; mechanisms for complaints to be made to an impartial person; fair processes for investigation and adjudication; and prohibitions against retaliation against persons making good faith complaints.

(B) In the event the Foundation learns of allegations of workplace misconduct as a result of notification by your organization or by third parties, your organization agrees to cooperate with reasonable requests of the Foundation to understand the policies, procedures, and practices in place and what steps were taken in response to the allegations. In making such requests, the Foundation is not seeking to determine the truth or falsity of the underlying allegations and is not accepting any such allegations as true. If the Foundation concludes that your organization lacks the necessary workplace protections or has failed to adhere to appropriate practices in its investigation, the Foundation may take such action as is appropriate under the circumstances, including suspending future grant payments until your organization has implemented additional steps to addressing the situation or, in extreme cases, terminating the grant. Prior to taking any action, the Foundation will discuss with you the proposed course of action and provide your organization an opportunity to respond and suggest corrective action.
10. **EVALUATING OPERATIONS:** The Foundation may monitor and conduct an evaluation of operations under this grant, which may include a visit from Foundation personnel to observe your organization's program, discuss the program with your organization's personnel, and review financial and other records and materials connected with the activities financed by this grant.
11. **FOUNDATION GRANT REPORTS:** The Foundation may include basic information about this grant through a variety of public channels, including press releases, publications, videos, social media, and the Foundation's website. If there are special considerations concerning the public announcement of this grant at your organization, if you plan to issue a public announcement of the grant, or if you would like to coordinate a public announcement of the grant with the Foundation's announcement, please reach out to Communications at the Foundation.
12. **RIGHT TO DISCONTINUE FUNDING, RESCIND PAYMENTS, AND REQUIRE RETURN OF UNSPENT FUNDS:** The Foundation may, in its sole discretion, discontinue or suspend funding, rescind payments made or demand return of any unspent funds based on any of the following: (a) the written reports required herein are not submitted to the Foundation on a timely basis, (b) the reports do not comply with the terms of this agreement or fail to contain adequate information to allow the Foundation to determine the funds have been used for their intended charitable purposes, (c) grant funds have not been used for their intended charitable purposes or have been used inconsistent with the terms of this agreement, (d) the Foundation is not satisfied with the progress of the activities funded by the grant, (e) the purposes for which the grant was made cannot be accomplished, (f) making any payment might, in the judgment of the Foundation, expose the Foundation to liability, adverse tax consequences, or constitute a taxable expenditure, or (g) failure to timely execute the DUA. The Foundation will provide notice of any determinations made under this paragraph. In the event the Foundation takes action permitted by this paragraph solely based on (d) and (e), and your organization provides documentation that it has incurred obligations consistent with the terms of the grant in good faith reliance on the grant agreement and the approved budget, the Foundation will consider in good faith permitting grant funds to be used to pay such obligations.
13. **RIGHT TO RECOVER SPENT FUNDS:** Your organization will repay the Foundation, upon demand, the amount of any funds spent for purposes inconsistent with or contrary to the grant agreement or the approved budget.
14. **U.S. TAX STATUS:** By countersigning this agreement, your organization confirms that it is a governmental entity. If such status changes during the course of this grant, your organization hereby

agrees to notify the Foundation and, upon request, promptly return any unspent grant funds to the Foundation as of the date of such change.

15. **MODIFICATION OF TERMS:** The terms of this agreement may be modified only by an agreement signed by an officer of your organization and a corporate officer of the Foundation. Any modifications made by your organization to this printed agreement (whether handwritten or otherwise) will not be considered binding on the Foundation until written confirmation of such modification is obtained from the Foundation.
16. **HEADINGS:** The section headings in this agreement are for convenience only and are not intended, and shall not be construed, to alter, limit or enlarge in any way the scope or meaning of the language contained in this agreement.
17. **ENTIRE AGREEMENT:** This agreement represents the entire agreement between your organization and the Foundation with respect to the subject matter herein and supersedes any and all prior agreements, understandings, negotiations, representations and discussions with respect thereto. This agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.
18. **DUE AUTHORITY:** **The person(s) signing this agreement on behalf of your organization represents and warrants to the Foundation that s/he is an officer of your organization and has requisite legal power and authority to execute this agreement on behalf of your organization and bind your organization to the obligations herein.**

IN WITNESS WHEREOF, the parties have caused this agreement to be executed as of the day and date first written above.

**JOHN D. AND CATHERINE T.
MacARTHUR FOUNDATION**

By: 
Joshua J. Mintz
Its: Vice President, General Counsel, and Secretary
E-Mail: jmintz@macfound.org

**CITY & COUNTY OF SAN FRANCISCO D/B/A
SAN FRANCISCO DISTRICT ATTORNEY OFFICE**

By: 
Signature
Its: 
Title

Acceptance Date: 11-20-18

Payment should be made payable to CITY & COUNTY OF SAN FRANCISCO D/B/A SAN FRANCISCO DISTRICT ATTORNEY OFFICE

To facilitate receipt of the grant funds:

- (1) Please upload the fully-signed agreement (and attachments) to the Foundation's Grants Management System.
 - (2) Please complete, sign, and return the MacArthur Electronic Payment Authorization Form by e-mail to MacFinanceGrantees@macfound.org. The MacArthur Electronic Payment Authorization Form can be downloaded from the Document Library of the Foundation's Grants Management System.
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DATA USE AGREEMENT

BETWEEN

[FILL IN NAME OF SITE]

AND

**RESEARCH FOUNDATION OF THE CITY UNIVERSITY OF NEW YORK ON BEHALF OF
THE CITY UNIVERSITY OF NEW YORK INSTITUTE FOR STATE AND LOCAL GOVERNANCE**

REGARDING DATA USE AND CONFIDENTIALITY

FOR

**The John D. and Catherine T. MacArthur Foundation
Safety and Justice Challenge**

This Data Use Agreement ("**Agreement**" or "**DUA**") is made and entered into by and between the "Site", which includes _____ ("**Lead Agency**") and all of the agencies, organizations and entities listed in Section XIX(A) as signatories of this Agreement, and Research Foundation of The City University of New York on behalf of The City University Of New York Institute for State and Local Governance ("**ISLG**").

WHEREAS the John D. and Catherine T. MacArthur Foundation ("**Foundation**") has initiated and is providing funding for the "Safety and Justice Challenge" (the "**SJC**"), the goal of which is to reduce the use of local incarceration by reducing the flow of individuals into jail, shortening lengths of stay in jail, and diminishing racial and ethnic disparities in jail populations without compromising public safety; and

WHEREAS the Lead Agency received funding to participate in the SJC, and the Site developed a plan to further the goals of the initiative in its jurisdiction; and

WHEREAS, upon the Lead Agency's application, the Foundation has decided to fund the Site (through the Lead Agency) to implement the plan it developed; and

WHEREAS data collection and analysis will inform decision-making during this initiative and will enable the Foundation to evaluate and understand the success of the SJC and, pursuant to an agreement between the Lead Agency and the Foundation, the Lead Agency will provide data to ISLG for such analysis; and

WHEREAS ISLG will collect, consolidate, and analyze data from the Site for the purpose of establishing performance measures and monitoring those measures and will, where appropriate, transfer such data to other entities working on the SJC for the purposes of evaluation, jail population projections, data-driven technical assistance, and other research to further understand the outcomes of the SJC;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein set forth, the parties agree as follows:

I. Term of Agreement

This Agreement shall be effective upon execution by all parties, and will continue until **[insert date five years from Grant initiation date: ___ / ___ / 2023]** (“Scheduled Termination Date”), unless it is:

- A. extended, as provided pursuant to Section X herein, or
- B. terminated earlier than the Scheduled Termination Date, pursuant to Section XI herein.

II. Definitions

- A. “Agreement” means this Data Use Agreement (“DUA”), including all documents attached or incorporated by reference.
- B. “Lead Agency” is an entity in the Site that was awarded funding for the implementation of the Site’s plan and has been given the specific operational responsibilities indicated in this Agreement. The Lead Agency for this Agreement is _____ (fill in name of agency).
- C. “Site” means the Lead Agency and all of the agencies, organizations and entities that are expected to provide or aid in the provision of Data pursuant to this Agreement whose names appear as signatories to this DUA in Section XIX(A).
- D. “Personally Identifiable Information (PII)” is information that directly identifies or uniquely describes a particular individual, criminal justice case, or event (e.g., individual arrest number, docket number, criminal justice individual identifier) or that might be used, either directly or in combination with other information, to ascertain the identity of a particular individual (such as place and date of birth).
- E. “Data” is the case-level information that is directly transferred from the Site to ISLG in response to ISLG’s requests for Data. The Data will contain PII.
- F. “Data Work Product” is files, information, or analysis that is derived from Data. An example of a Data Work Product is a file in which the Data is aggregated, matched or compared to other information gained during the SJC. Unless stated otherwise, Data Work Product may contain PII and may contain case-level information.
- G. “Research Products” are any written publications or reports, or any presentations and the materials that accompany them, that are generally accessible to the public, and which present the results of systematic inquiry or analysis of the SJC-generated information. Examples of Research Products that may be produced concerning the SJC are an evaluation, jail population projections and conclusions drawn from performance measurement. Research Products do not contain PII.

- H. "Communication Materials" are materials in written or oral form, produced for the public, that convey general news and information about the SJC, but which are not the product of systematic investigation. Communication Materials do not contain PII.
- I. "SJC Partners" are organizations that have been funded by the Foundation to provide technical assistance, research support, consultation, or other services or expertise to SJC sites as part of the SJC initiative.

III. Data Transfer

- A. The Site will provide to ISLG case-level Data related to key SJC decision points, as delineated in the Data Elements List ("List") that is attached hereto as Exhibit A, to the extent such Data are contained within the records maintained by the Site. The List may be amended from time to time by the mutual written consent of the Lead Agency and ISLG. For this purpose only, the requirement of writing may be satisfied through email correspondence between the Data Liaisons, as hereinafter defined, for the Site and ISLG, who are identified in Section XIII, which correspondence clearly confirms that both parties agree to the amendment.
- B. The Site will provide Data to ISLG, upon ISLG's request, at least three times during the term of this Agreement, beginning in the fall/winter of 2018. Each Data transfer will correspond to a point of performance measurement: baseline (on or about September of 2018), Year One (on or about September of 2019), Year Two (on or about September of 2020), and any other subsequent years of the initiative. As specified in Exhibit A, the first Data pull will include cases and events from April 2013 to baseline; each subsequent Data pull will include cases and events for the next twelve (12) months.
- C. The Lead Agency, through the Site's Data Liaison identified in this Agreement, is responsible for coordinating the provision of Data to ISLG. The Site's Data Liaison will be available as needed to answer ISLG's questions regarding the Data provided.
- D. The Site will provide the Data to ISLG within thirty (30) business days of each request for Data. However, if the Site has questions about the request, is unable to provide specific data elements or to provide them in the form requested, the Lead Agency's Data Liaison will inform the ISLG Data Liaison as soon as possible, and the liaisons will work together to answer the questions and/or develop a solution.
- E. All Data will be transferred from the Site using ISLG's secure file transfer protocol.

IV. Data Storage

- A. All Data provided by the Site to ISLG and all Data Work Product is confidential. ISLG will hold all Data and Data Work Product in a secure manner and will protect it from disclosure, except as specifically provided in this Agreement.
- B. Data and Data Work Product in electronic form shall be stored on secure computer drives that require credentialed login for individual access. All access to such Data and Data

Work Product shall be restricted to authorized users who have been authenticated through secure password and login.

- C. ISLG will limit the use of portable electronic devices that contain Data or Data Work Product to the minimum amount necessary. To the extent that any portable electronic devices contain Data and Data Work Product, they will be stored securely in locked drawers and cabinets, access to which will be limited to trained, authorized personnel who have a need to access such Data or Data Work Product for purposes of the SJC initiative. When transported, such portable devices will remain under the physical control of authorized staff.
- D. ISLG will limit the use of paper and other hard copy files or documents that contain Data or Data Work Product to the minimum amount necessary. Such hard copy materials will be stored in locked drawers and cabinets, with access limited to authorized personnel.
- E. The stored Data and Data Work Product will be subjected to the technical safeguards for the protection of PII that are generally accepted as best practices in the industry.

V. ISLG's Use of Data and Data Work Product

- A. ISLG, including its employees, agents and subcontractors, will not use the Data or Data Work Product for any purpose other than that of carrying out its work in the SJC. Accordingly, ISLG will not match or link any of the Data provided or any of the Data Work Product produced under the terms of this Agreement with any datasets that are unrelated to the SJC.
- B. ISLG will not re-disclose the Data and Data Work Product for any purposes other than those specifically stated in this Agreement, except as required by law.
- C. ISLG will limit access to the Data and Data Work Product to those authorized employees, agents and contractors who require it in the official performance of their job duties. ISLG certifies that its employees, agents, and subcontractors with access to the Data and Data Work Product have received training on data security and the protocols that are necessary to secure confidential materials, the importance of confidentiality, and the requirements of this Agreement.
- D. ISLG will not contact any individual whose records are contained in the Data.

VI. ISLG's Disclosure of Data and Data Work Product

- A. ISLG will disclose aggregate data to RTI International ("RTI"), for the sole purpose of allowing RTI to conduct a comprehensive evaluation of the effectiveness and the impact of the SJC on behalf of the Foundation. ISLG will not disclose any Data or case-level Data Work Product to RTI.
- B. ISLG will disclose Data Work Product that does not contain PII to the following entities and solely for the following purposes: The JFA Institute ("JFA"), which will conduct jail population projections, the Site Coordinator assigned to the Site, which will conduct

analysis as needed to inform technical assistance provided to the Site, and the W. Haywood Burns Institute ("**Burns Institute**"), which will also conduct analysis as needed to inform technical assistance provided to the Site. In addition, ISLG may disclose Data Work Product that does not contain PII to other organizations who become SJC partners, as defined in II(I) and as further described herein, for the purpose of providing technical assistance or research support to the SJC. Such organizations must be approved by the Foundation before any Data Work Product is shared.

- C. If and when additional organizations are approved by the Foundation to become SJC Partners and to use Data Work Product for the purposes described in Section VI (B), supra, their use of data must also be approved by the Lead Agency before any data is shared. ISLG shall promptly notify the Lead Agency of the approval of an additional organization by the Foundation. No Data Work Product shall be disclosed by ISLG to such a new partner unless and until the Lead Agency gives its express prior written consent and approval.
- D. ISLG may disclose the aggregate data provided by the Site to the SJC to date to (a) the Foundation and the Vera Institute of Justice, for the purpose of using such information in their Communication Materials regarding the SJC, such as Site profiles for the SJC website, press releases, and talking points; (b) RTI, for the purpose of furthering its evaluation of the SJC; (c) JFA, for its work on jail projections; and (d) the entities referred to in Section VII, for SJC-related Research as defined in Section VII.
- E. De-identified data and Data Work Product that contain any case-level information that is transferred from ISLG to any of the parties referred to in (B) above or Section VII shall be encrypted in transit, using secure, authenticated, and industry-accepted encryption mechanisms. All electronic data transmission will be conducted using a Secure Socket Layer (SSL) certified, password-protected file sharing system that is used for secure data exchange.
- F. All recipients of Data Work Product pursuant to this Section VI must execute a binding, written agreement with ISLG in which the recipient commits to the same provisions regarding the security, confidentiality, disclosure, and destruction of Data Work Product that are binding upon ISLG pursuant to this Agreement.
- G. ISLG will not disclose any Data Work Product to any of the parties referred to in (A) or (B) until they have submitted their work to an Institutional Review Board and received either approval, exemption from review, or a determination that the work is not human subjects research.

VII. SJC-Related Research

The Foundation may approve and fund "SJC-related Research," which is additional research or analysis that is based solely on the Data Work Product not containing PII generated from the SJC. The Foundation may approve such research if the Foundation determines that it will help document and further understand the outcomes of the SJC in relation to jail and prison population trends, including changes in racial and ethnic disparities, public safety, criminal justice system costs, the use of innovative and promising criminal justice practices, and behavioral health and other health trends. The entities that may apply to the Foundation to conduct such research are the Site Coordinators,

which are the Vera Institute of Justice, the Center for Court Innovation, Justice System Partners, and the Justice Management Institute; ISLG; RTI; JFA; and the Burns Institute. The Foundation may also consider applications from other organizations who become SJC partners, if the Foundation believes the organization is qualified to conduct such research and it agrees to abide by the confidentiality provisions stated in this DUA. All SJC-related Research must be submitted to an Institutional Review Board in accordance with the applicant organization's procedures or guidelines.

VIII. Request for Data by Third Parties

In the event that ISLG receives a request from a third party for the disclosure of PII contained in the Data or Data Work Product, for example, a subpoena or freedom of information request, ISLG will promptly notify the Lead Agency, unless it is prohibited from doing so by state or federal law, and will discuss with the Lead Agency an appropriate response to the request. In responding to such a request, ISLG will abide by all Federal, state and local statutes regarding the confidentiality of the information requested.

In the event that ISLG receives a request from a third party for the disclosure of data received from the Site or Data Work Product that does not contain PII, ISLG will promptly notify the Lead Agency and the Foundation of the request and ISLG's response. Where appropriate, ISLG will discuss such requests with Lead Agency and Foundation before responding.

IX. Research Products and Communication Materials

- A. It is anticipated that the following entities will create Research Products for the SJC: ISLG (performance measurement), RTI (overall evaluation), JFA (jail population projections), and the Burns Institute (technical assistance). In addition, these named entities and the Site Coordinators (the Vera Institute of Justice, the Center for Court Innovation, Justice System Partners, and the Justice Management Institute), and any new SJC partners approved by both the Foundation and the Lead Agency as described in Section VI(B) and (C), may produce Research Products in connection with SJC-related Research. The Foundation, the organizations referred to in this Section IX (A), and new SJC partners as approved by the Foundation may also produce Communication Materials.
- B. No PII will be reported in any Research Product or Communication Materials. Sites may be identified by name and discussed in Research Products and Communication Materials.
- C. The Lead Agency will have an opportunity, within a reasonable time period specified by the creator of each written Research Product, to review the Research Product before publication, for the purpose of (a) identifying factual errors or inaccuracies and providing information or corrections regarding it and (b) suggesting additional contextual information that might aid in the interpretation of findings. At its discretion, the entity that created the Research Product may amend the Research Product based on the Lead Agency's comments if that entity deems the comments to be relevant and appropriate. Should the entity that created the Research Project decide not to amend, or if the Site determines that the entity's amendment is insufficient, the procedure outlined in Section IX(D), below, shall apply.

- D. In the event that the Lead Agency identifies research or analysis findings that it believes to be inaccurate, and the entity that created the Research Product decides not to amend it, upon request of the Lead Agency, ISLG will work with the entity creating the Research Product and the Lead Agency to explore how the findings were developed, and to correct the findings, as needed, before publication. In the event that the entity creating the Research Product chooses not to make an amendment based on the Lead Agency's comments, the Lead Agency shall be permitted to draft an addendum that must be included in the Research Product, except in the case of the SJC evaluation report completed by RTI.

X. Extension of Agreement

The Site understands that the Foundation may decide to extend the term of the Grant and the corresponding collection and analysis of Data such that the Agreement's Scheduled Termination Date would no longer be practicable. Accordingly, if ISLG wishes to extend the Agreement it will notify the Lead Agency no less than 60 days before the Scheduled Termination Date. In that case, this agreement will be modified through the following process: ISLG will propose a brief letter Agreement, to be executed by all the entities that signed this Agreement, or by all of the entities that will provide additional Data during the extended term, as applicable, that may extend the term to allow for additional Data pulls, and which protects the security of the Data as it is protected in this Agreement. All signatories to this Agreement agree that they will respond promptly to such a request for extension, and will not unreasonably withhold their consent.

XI. Early Termination of Agreement

If, for any reason, the Foundation discontinues the SJC, or if the Foundation or Lead Agency terminates Lead Agency's participation in the SJC, this Agreement would automatically terminate at the same time that the SJC is terminated or the Lead Agency's participation in the SJC ends.

The Lead Agency may seek to terminate the Agreement before the Scheduled Termination Date if there is an uncorrected breach of a material term of the Agreement. In such a case, the Lead Agency would send written notification to ISLG and the Foundation stating that it believes there has been a material breach of this Agreement, specifying its reasons for such belief. The Lead Agency would meet with ISLG and the Foundation within ten (10) business days of ISLG's receipt of the notification to discuss the alleged breach and attempt to cure or resolve it. If the issue is resolved, ISLG and the Lead Agency will confirm the resolution within five (5) business days by executing a written memorandum so stating. If the issue is not resolved, ISLG and the Lead Agency will continue to discuss the issue and seek in good faith to resolve it, for an additional forty-five (45)-day period. Thereafter, upon ten (10) business days' notice, the Lead Agency may terminate the Agreement by providing written notification of termination.

XII. Data Destruction

Upon Termination of the Agreement, including Early Termination pursuant to Section XI, ISLG will destroy the Data and all Data Work Product containing PII two years after the Scheduled Termination Date stated in Section I.

Acceptable destruction methods for various types of media include:

1) For paper documents containing confidential or sensitive information, a contract with a recycling firm to recycle confidential documents is acceptable, provided the contract ensures that the confidentiality of the data will be protected. Such documents may also be destroyed by on-site shredding, pulping, or incineration.

2) If confidential or sensitive information has been contained on optical discs (e.g. CDs, DVDs, Blu-ray), the data recipient shall either destroy by incineration the disc(s), shredding the discs, or completely defacing the readable surface with a coarse abrasive.

3) If data has been stored on server or workstation data hard drives or similar media, the data recipient shall destroy the data by using a "wipe" utility which will overwrite the data at least three (3) times using either random or single character data, degaussing sufficiently to ensure that the data cannot be reconstructed, or physically destroying disk(s).

4) If data has been stored on removable media (e.g. USB flash drives, portable hard disks, or similar disks), the data recipient shall destroy the data by using a "wipe" utility which will overwrite the data at least three (3) times using either random or single character data, degaussing sufficiently to ensure that the data cannot be reconstructed, or physically destroying disk(s).

XIII. Data Liaisons

A. Site Data Liaison

The Lead Agency designates the following individual to be the data liaison for the Site ("Data Liaison"):

Name: _____

Email address: _____

Telephone: _____

B. ISLG designates the following individual to be the Data Liaison:

Name: _____

Email address: _____

Telephone: _____

In the event that Lead Agency or ISLG designates another individual to serve as Data Liaison during the course of the DUA, they will provide prior notification to each other, along with the new Data Liaison's contact information. Such notification may be accomplished through email, with each party using a notice that is signed and scanned.

XIV. Indemnification

A. ISLG agrees to indemnify and defend the Lead Agency against all claims, demands, lawsuits, fines, penalties, damages, and losses and costs (including court costs,

investigative expenses, and attorneys' fees), arising out of or caused by ISLG's negligent or willful failure to abide by the provisions of this Agreement.

- B. The Lead Agency agrees to indemnify and defend ISLG against all claims, demands, lawsuits, fines, penalties, damages, and losses and costs (including court costs, investigative expenses, and attorneys' fees), arising out of or caused by the Lead Agency's negligent or willful failure to abide by the provisions of this Agreement.

XV. Survival of Provisions

All provisions of this Agreement regarding the confidentiality and security of the Data and Data Work Product shall survive the termination of this Agreement, including any extended term of this Agreement.

XVI. General Provisions

- A. This Agreement shall be governed by and construed under the laws of New York State.
- B. Any waiver by any party of the violation of any provision of this Agreement shall not bar any action for subsequent violations of the Agreement.
- C. If any provision of this Agreement becomes or is declared illegal, invalid or unenforceable, such provision will be severed from this Agreement and will be deemed deleted. The other terms and conditions thereof shall not be affected thereby, and shall remain in full force and effect.
- D. This Agreement may be amended by the mutual consent of the parties in writing.
- E. This Agreement is complete and contains the entire understanding of the parties relating to the subject matter contained here. This Agreement supersedes any and all prior understandings, representations, negotiations, discussions, and agreements between the parties relating hereto, whether written or oral.

XVII. Third Party Beneficiary

The Foundation shall be a third party beneficiary of this Agreement. ISLG may not assign its responsibilities hereunder without the express written consent of the Foundation. If, due to unforeseen circumstances, the Foundation designates a replacement organization (with similar expertise of ISLG) to assume the obligations and duties of ISLG as provided in this Agreement, the Foundation will provide written notice to the Site and request the Site's approval to assign ISLG's obligations and duties to the replacement organization. In that case, the Site may terminate this Agreement if it is unwilling to provide Data to the replacement organization or to work with it in the same manner that it agreed to work with ISLG, provided that the Site will not unreasonably withhold its approval of the assignment by the Foundation to the replacement organization.

**Exhibit A:
Data Elements List**

The list below contains data elements that may be requested from Safety and Justice Challenge (SJC) core sites for the purposes outlined in the data use agreement (DUA). The list is organized by system point and is a general template that covers the broad range of reforms being pursued across all SJC sites and system points. While information highlighted in yellow will be requested from all sites, the remainder of the list will be tailored to site-specific data needs (depending upon site-specific strategies for reducing jail populations) before the DUA is executed. ISLG will work with each site to refine the list based on the scope of its implementation plan, further define and tailor data elements to the local operational context; and identify time frames, samples, formatting and other parameters for requested data.

BACKGROUND INFORMATION:

For cases/people at each of the system points below (as applicable):

- Unique Person ID
- Unique Case ID (e.g. arrest ID, summons ID docket number, probation case number, etc.)
- Date of birth
- Gender
- Race
- Ethnicity
- Zip code (of home residence)
- Any other information necessary to identify eligible/target populations for selected strategies

LAW ENFORCEMENT

For each arrest (custodial and non-custodial):

- Date of arrest
- Zip code of arrest location
- Type of arrest—custodial or non-custodial (i.e. arrested and released with a citation)
- All charges associated with the arrest—including charge code and level (felony, misdemeanor, etc.), flag for top charge
- Offense type (for each charge) (e.g., person, property, drug, public order, sex, violation of probation/parole, other, etc.)

For each summons:

- Date of summons
- Zip code where summons was issued
- Type of summons (e.g. civil, criminal)
- All charges associated with the summons—including charge code and level (misdemeanor, violation, etc.)

For each police diversion:

- Date of diversion
- All charges associated with the diversion
- Name and type of diversion program/service (if applicable)
- Date diversion terminated (if applicable)
- Type of termination (successful/unsuccessful) (if applicable)
- Dates and charges of any subsequent arrests that occur during diversion programming (if applicable)

For each call for service:

- Date of call
- Type/nature of incident (including information about offense, as relevant)
- Flag for incidents involving behavioral health crisis/disturbance
- Responding unit
- Outcome (e.g. arrest, transport to emergency room, referral to service)
- If referral to service, name/type of program/service

PROSECUTOR (OR OTHER CHARGING ENTITY):

For each case received by the prosecutor (or other charging entity):

- Date of review and/or receipt of arrest charges
- Information on any risk assessment completed by the prosecutor
- Charging outcome (e.g., case accepted, declined, deferred/diversion pre-filing, referred back to law enforcement, grand jury outcome, etc.)
- Date of charging outcome
- If not declined:
 - All charges associated with the case—including charge code and level (felony, misdemeanor, etc.)
 - Offense type (for each charge) (e.g., person, property, drug, public order, sex, violation of probation/parole, other), etc.

For each prosecutorial diversion:

- Conditions of diversion/deferral (e.g. restitution payments)
- Date diversion terminated (if applicable)
- Type of termination (successful/unsuccessful)
- Any relevant additional detail on conditions met
- Dates and charges of any subsequent arrests that occur during diversion/deferral period (charge codes and levels)

PUBLIC DEFENDER:

For each case screened for assigned counsel:

- Date of arrest
- Date of filing (by prosecutor or other charging entity)
- Date of eligibility screening (for public defender/assigned counsel)
- Outcome of eligibility screening
- If assigned counsel, type assigned (e.g., public defender, assigned counsel, private attorney)—in cases where there is a change in counsel, include all assignments
- If assigned counsel, all assignment dates

PRETRIAL SERVICES:

For each case screened/assessed:

- All charges associated with the case (charge code and level—using charges at the point of assessment)
- Date of risk assessment/screening
- Outcome/recommendation of risk assessment/screening (risk level and score)

- Pretrial release recommendation (release, release to supervision, etc.)
- Date of pretrial release recommendation
- Pretrial release decision (by the court)
- Date of pretrial release decision

For each case released to pretrial supervision:

- Enrollment and Termination dates
- Any conditions applied
- Termination type (successful/unsuccessful) and specific conditions met (e.g. restitution paid) as applicable
- Date and charges of any subsequent arrests that occur during supervision (charge codes and levels)
- Dates of any failures to appear that occur during supervision (and associated bench warrants)

COURT:

For each court case:

- Date of filing (by prosecutor or other charging entity)
- All filing charges (charge codes and levels)
- If bail/bond set:
 - Type (secure, unsecured, full cash, etc.)
 - Amount
 - Date set
 - If paid/posted: date, amount, and type paid/posted; date of release from custody
 - If bail/bond review: date, outcome (bail/bond lowered, eliminated, etc.), and release status following review
- Release decision at bail/bond hearing/first appearance (e.g., remand, held on money bail, released on money bail, released on bond, RoR, supervised release, ATI, etc.)
- Any further release decisions made
- All arraignment charges (if different from filing)
- Arraignment plea
- Arraignment outcome (e.g. continued, disposed, dismissed)
- Dates of all failures to appear and bench warrants issued
- Dates, types, and outcomes of selected court appearances (including bail/bond hearing/initial appearance, arraignment, disposition, sentencing)
- Dates of all adjournments/continuances
- Custody status at selected court appearances (in custody, out of custody)
- Type of counsel present at selected court appearances (e.g. public defender, court-appointed counsel, private attorney)
- If screened for diversion/deferral at any point during court processing: screening date/outcome
- If diverted/deferred at any point during court processing (including problem-solving court):
 - Referral date
 - Name and type of diversion/deferral program
 - Any conditions applied
 - Termination date and type (successful/unsuccessful) and specific conditions met (e.g. restitution paid) as applicable
 - Date and charges of any subsequent arrests that occur during diversion/deferral (charge codes and levels)

- Disposition (e.g. dismissal, guilty plea, conviction)
- Disposition charges (if different from filing or arraignment)
- If sentenced, sentence type and length

PROBATION AND/OR PAROLE:

For population snapshot:

- Original charges (code, level, flag for top charge)/sentence (date, type, length)
- Intake date
- Supervision level (if applicable)
- Risk level
- Information on any special supervision conditions (restitution, sex offender registration, etc.)
- Anticipated discharge date

For each violation issued:

- Original charges/sentence (date and type)
- Information on any special supervision conditions (restitution, sex offender registration, etc.)
- Date violation filed
- Type of violation (technical, new arrest, etc.)
- Information on conditions violated
- If booked into jail custody: date of booking and release
- If diverted to program/service: date of diversion, name and type of program, termination type (successful/unsuccessful); dates and charges of any subsequent arrests that occurred during programming (charge codes and levels)
- Date of final violation disposition
- Final disposition (revoked, restored, etc.)

JAIL:

For jail population snapshot:

- Law enforcement agency admitting person
- Legal status ("current" status---at time of snapshot)
- If held on money bail/bond, amount
- Date/time of admission
- Date/time of booking (if different from admission)
- Risk assessment/classification/custody level (current status)
- Housing unit and cell location (including facility of confinement) (current status)
- Flag for mental health
- Information on any program participation within jail (name/type of program, date of enrollment, date of termination, type of termination (successful/unsuccessful))
- All charges associated with jail admission (charge codes, levels, flag for top charge)
- Top/Most Serious Booking/Admission Charge Type (e.g., person, property, drug, public order, sex, violation of probation/parole, other, etc.)
- If sentenced, date, length, type (time served, jail, split) of sentence; sentencing court/jurisdiction
- If probation/parole violator, type of violation (probation/parole; technical/new arrest)

- Flag for individuals who are under the jail's jurisdiction but not confined (some elements in this list will not apply to them)

For jail admissions:

- Law enforcement agency admitting person
- Legal status at admission
- If held on money bail/bond, amount
- Date/time of admission
- Date/time of booking (if different from admission)
- Risk assessment/classification status/custody level at admission
- Assigned housing unit and cell location at admission (including facility of confinement)
- All charges associated with jail admission (charge codes, offense levels, flag for top charge)
- Offense Type for each charge associated with booking/admission (e.g., person, property, drug, public order, sex, violation of probation/parole, other, etc.)
- Flag for mental health
- If released:
 - Date/time of release
 - Type of release (e.g., RoR, release on money bail, release to pretrial supervision, ATI, sentence served, transferred, etc.)
 - If sentenced: date, length, type (time served, jail, split) of sentence; and sentencing court/jurisdiction
 - Risk assessment/classification status/custody level at release
 - All charges associated with release (charge codes, levels, flag for top charge)
 - Referrals/connections to services/programming upon release (name/type of service/program, date of referral)

*ATTEMPTS TO INFLUENCE LEGISLATION
BY MacARTHUR FOUNDATION GRANTEES*

Under United States law, MacArthur Foundation grant monies may not be used to pay for attempts to influence legislation, unless they qualify under certain specific exceptions. (These laws do not affect how grantees may spend money received from other sources.) This paper will generally describe what activities are regarded as attempts to influence legislation and some of the exceptions available. Also, attached is a chart describing some permissible and prohibited public policy activities.

Lobbying

Attempts to influence legislation, commonly known as lobbying, may be of two types, direct or indirect:

Direct Lobbying

Direct lobbying refers to certain communications directly with government personnel who are involved in the legislative process. They may be legislators or employees of legislative bodies, or other government personnel who participate in the formulation of the legislation concerned.

A communication with these government personnel will be lobbying only if it both refers to specific legislation and indicates a view on that legislation.

Indirect Lobbying

Indirect (or "grass roots") lobbying refers to communications with members of the general public. Certain "public relations" or educational activities may constitute indirect lobbying, and others will not. Indirect lobbying communications include only communications that (1) refer to specific legislation, (2) indicate a view on the legislation, and (3) encourage the recipient of the communication to take action with respect to the legislation.

Specific Legislation

"Specific legislation" includes both legislation that has already been introduced in a legislative body and a specific legislative proposal.

Legislation

Legislation refers only to action by a legislative body--such as a congress, senate, chamber of deputies, house of representatives, state legislature, local council or municipal chamber of representatives -- or by the public in a referendum or similar

procedure. Legislation of the United States or any other country or of any local government is included.

Legislation also includes proposed treaties required to be submitted by the President of the United States to the Senate for its advice and consent from the time the President's representative begins to negotiate its position with the prospective parties to the proposed treaties.

Action by an executive or by a judicial or administrative body does not constitute legislation, so attempts to influence such action do not constitute lobbying.

Encouraging Recipient to Take Action

A communication may encourage the recipient to take action with respect to legislation, and therefore meet the third test for indirect lobbying, in any one of the following four ways:

1. It may state that the recipient should contact a legislator (or other government official or employee who may be involved in the legislation).
2. It may state the address, telephone number, or similar information of a legislator or an employee of a legislative body.
3. It may provide a petition, tear-off postcard, or similar materials for the recipient to send to a legislator or other government official or employee.
4. It may specifically identify one or more legislators who will vote as:
 - a. opposing the communication's view with respect to the legislation,
 - b. undecided about the legislation,
 - c. the recipient's legislative representative, or
 - d. a member of the legislative committee that will consider the legislation.

Exceptions

There are a few specific exceptions from prohibited lobbying. The most important of these for MacArthur Foundation grantees are the exception for examinations and discussions of broad social, economic, and similar problems and the exception for nonpartisan analysis, study, or research.

A communication regarding broad social, economic, and similar problems will not constitute lobbying, even if the problems discussed are of a type with

which government would be expected to deal eventually. Accordingly, it is permissible to speak to legislators or the general public about problems that the legislature should address. These communications may not, however, discuss the merits of a specific legislative proposal or directly encourage recipients to take action with respect to the legislation.

Nonpartisan analysis, study, or research means an independent or objective exposition of a particular subject matter. It may advocate a particular position or viewpoint, so long as there is a full and fair discussion of the pertinent facts, which is sufficient to enable an individual to form an independent opinion or conclusion.

The results of nonpartisan analysis, study, or research may indicate a view on specific legislation, and they may be communicated to a legislator or government official or employee involved in the legislative process. They may not, however, be communicated to members of the general public with a direct encouragement to the recipient to take action with respect to the legislation.

A grantee may not use the nonpartisan analysis, study, or research exception, such as by omitting the direct encouragement to take action, and then later use the

communication for lobbying purposes. If it does, and if the grantee's primary purpose in preparing the original communication was for use in lobbying, the amounts spent to prepare the original communication will be treated as funds used for lobbying.

Related Issues

The use of any MacArthur Foundation grant monies to participate in any political campaign on behalf of or in opposition to any candidate for public office is also prohibited by United States law. This applies to elections both inside and outside the United States.

Also, no MacArthur Foundation grant monies may be used to make any payments that would be illegal under local law, such as to offer money to a public official to perform an official action or to omit or to delay an official action.

Questions

If you have any questions regarding the rules discussed in this memorandum, or if you would like further information please contact the Office of the General Counsel, at the John D. and Catherine T. MacArthur Foundation, 140 South Dearborn Street, Chicago, Illinois 60603-5285, U.S.A.; telephone (312) 726-8000.

PERMISSIBLE AND PROHIBITED ACTIVITIES***Some Permissible Public Policy Activities***

1. Meetings with or letters to government officials, including legislators, about a problem needing a legislative solution, so long as there is either no reference to specific legislation or no view expressed on specific legislation.
2. Communications with members of the general public about a social problem, so long as there is either no reference to specific legislation, no position taken on the legislation or no encouragement of the public to contact legislators or other government personnel concerning the legislation.
3. Meetings with or letters to government personnel other than legislators or their staff (such as mayors, governors or their staff) about specific legislation if the personnel contacted are not participating in formulating the legislation.
4. Efforts to influence regulations or other actions of an executive, judicial or administrative body.
5. Public interest lawsuits.
6. Communications directly to legislators or their staff regarding legislation that might affect the communicating organization's existence, powers and duties, or its exemption from taxes.
7. Responding to written requests from a legislative body or committee (but not one legislator) for technical advice or assistance on particular legislation.
8. Communicating the results of nonpartisan analysis, study or research on a legislative issue, so long as there is no direct encouragement of members of the general public to contact legislators or other government personnel concerning the legislation.

Some Prohibited Public Policy Activities

1. A letter to or meeting with a legislator encouraging the legislator to vote either for or against specific legislation or to submit a specific legislative proposal to the legislature.
2. An advertisement or pamphlet encouraging people to contact their legislators and to urge them to vote for or against specific legislation.
3. A public meeting where individuals are asked to sign a petition urging legislators to vote for or against specific legislation.
4. Publishing articles and producing radio and television broadcasts urging recipients to become involved in a political campaign on behalf of or in opposition to a candidate.
5. Preparing a fact sheet for a legislative committee describing one view of proposed legislation important to an organization's objectives, when such fact sheet has not been requested in writing by the committee.

ATTACHMENT I

Policy Regarding Intellectual Property Arising Out of Foundation Grants

Introduction

Foundation grants often result in tangible products, such as reports, papers, research, software, data sets, curriculum, books, film or television documentaries, or radio programs ("Grant Work Product"). This Policy articulates the principles guiding the Foundation's approach to the ownership and use of Grant Work Product. It addresses specifically the ownership, use, copyright to, distribution and licensing of the Grant Work Product arising from project grants by balancing the interests of the Foundation with the interests of the grantee and other interested parties.

Recipients of general operating support grants are expected to have policies in place reasonably consistent with the underlying philosophy and principles reflected in this Policy.

The Foundation is cognizant that fast-evolving technological advances are impacting the manner and method by which knowledge in whatever form can be protected and distributed and the Foundation will evaluate this policy in light of this understanding. The attached glossary defines certain underscored terms used in this Policy. A Guidance Memorandum that provides further detail on the Foundation's approach to specific issues accompanies this policy and will be revised from time to time as appropriate.

Policy

The Foundation's policy is to ensure that use of the Grant Work Product furthers charitable purposes and benefits the public. To that end, the Foundation seeks prompt and broad dissemination or availability of the Grant Work Product at minimal cost to the public or, when justified, at a reasonable price. Distribution at a reasonable price may be justified when integral to the business plan and sustainability of a charitable organization or when the Foundation is satisfied that net revenues derived from the distribution will be used for charitable purposes.

- Grant Work Product should, whenever feasible, be licensed under a Creative Commons license appropriate for the circumstances or other similar scheme that provides for wide distribution or access to the public.
- Software created with grant funds should be ordinarily licensed under an open source license.
- The Foundation also expects openness in research and freedom of access to research results and, when feasible, to the underlying data by persons with a serious interest in the research. This means that grant-funded impact studies should generally be registered in a field-appropriate registry, preferably before data are collected or at least before statistical analyses are performed.

The Foundation recognizes there may be circumstances where limited or delayed dissemination of Grant Work Product, delayed or non-registration of impact studies, or limited or delayed access to data may be appropriate to protect legitimate interests of the grantee, other funders, principal investigators or participants in research studies. Such circumstances will be evaluated on a case-by-case basis.

We will apply these same general principles to our contract-funded evaluation work and make the relevant information available under our Policy on Information Sharing.

Ownership of intellectual property rights (including copyright and patent rights) should not be used to limit or deny access to the Grant Work Product, to result in exclusive use of such Grant Work Product, or to create revenue that is not used substantially for charitable purposes. Copyright to or patent rights in the Grant Work Product will ordinarily remain with the grantee, but the Foundation will be granted a no-cost assignable license to use or publish the Grant Work Product consistent with this Policy. The Foundation may forego or limit the requirement of a license if the Foundation is reasonably satisfied that other appropriate arrangements will be implemented that will assure the goals of this Policy.

In all instances, the Foundation will agree to suitable terms at the time a grant is made based on the facts to ensure the objectives of the Policy are met while respecting appropriate interests of others.

