U.S. Department of Justice

Office of Justice Programs

National Institute of Justice

Washington, D.C. 20531

PRIVACY CERTIFICATE AND CONFIDENTIALITY REQUIREMENTS OF NIJ FUNDING

Dear Applicant:

As you know, much of the research conducted by the National Institute of Justice (NIJ) involves collecting data on individuals through direct observation, interview or survey, case records, crime reports, and other administrative records. These activities raise a number of ethical and legal concerns about harm or embarrassment to individuals that must be addressed before the research may be conducted. NIJ and recipients of NIJ funding are subject to the statutory and regulatory confidentiality requirements of 42 USC §3789g and 28 CFR Part 22. Both 42 USC §3789g and 28 CFR Part 22 provide that research and statistical information identifiable to a private person is immune from legal process and may only used or revealed for research purposes.

The regulations at 28 CFR Part 22 require all applicants for NIJ support to submit a Privacy Certificate as a condition of approval of a grant application or contract proposal that contains a research or statistical component under which personally identifiable information will be collected. The Privacy Certificate is the applicant's assurance that he/she understands his/her responsibilities to protect the confidentiality of research and statistical information and has developed specific procedures to ensure that this information is only used or revealed in accordance with the requirements of 42 USC §3789g and 28 CFR Part 22.

NIJ, as a matter of policy, requires that Privacy Certificates be submitted as part of all applications regardless of whether the project involves the collection of identified data. In cases where no personally identifiable information will be collected, the Privacy Certificate should contain a statement to this effect.

In order to assist you in preparing your Privacy Certificate, we have enclosed a sample format. You may use this or any other format that includes all the points addressed by 28 CFR Part 22.

Privacy Certificate Guidelines

The regulations at 28 CFR §22.23 require that a Privacy Certificate be submitted to NIJ as part of any application for a project in which information identifiable to a private person will be collected for research or statistical purposes. However, NIJ, as a matter of policy, requires that Privacy Certificates be submitted as part of ALL grant applications regardless of whether the project involves the collection of identified data. In cases where no personally identifiable information will be collected, the Privacy Certificate should contain a statement to this effect.

The following summarizes the requirements of 28 CFR §22.23 and should be used as a guide to completing the Privacy Certificate.

1. The Privacy Certificate must fully describe the following:

   - Procedures to ensure data confidentiality;
   - Procedures to ensure the physical and administrative security of data;
   - Procedures for subject notification or justification for waiver; and
   - Procedures for final disposition of data.

2. The Privacy Certificate must also include the name and title of:

   - the person with primary responsibility for ensuring compliance with the regulations;
   - the person authorized to approve transfers of data; and
   - the person authorized to determine final disposition procedures for the data collected and developed by the project.

3. The Privacy Certificate must contain assurances by the applicant that:

   A) Data identified to a specific individual will not be used or revealed unless it is research or statistical information that is being used for research and statistical purposes.

   B) Identified data will be used or revealed only on a need-to-know basis to:

      i. Officers, employees and subcontractors of the recipient of assistance;

      ii. Persons and organizations receiving transfers of information for research and statistical purposes only if an information transfer agreement is entered into in which the recipient is bound to use the information only for research and statisticalpurposes and to take adequate administrative and physical precautions to ensure the confidentiality of the information.

C) Employees with access to data on a need-to-know basis will be advised in writing of the confidentiality requirements and must agree in writing to abide by these requirements.

D) Subcontractors requiring access to identified data will only do so according to an information transfer agreement which states that the confidentiality of the data must be maintained and that the information may only be used for research or statistical purposes;

E) Private persons from whom identified data are obtained or collected will be advised either orally or in writing that the data will only be used for research and statistical purposes and that compliance with requests for information is not mandatory. That is, participation in the research is voluntary and may be withdrawn at any time. **If the notification requirement is to be waived, an explanation must be contained within or attached to the Privacy Certificate;**

F) Adequate precautions will be taken to ensure the administrative and physical security of the identified data.

G) A log indicating that identified data have been transferred to persons other than those in NIJ or other OJP bureaus, created under the Omnibus Crime Control Act or its amendments, or to grantee, contractor, or subcontractor staff will be maintained and will indicate whether the data has been returned or if there is an alternative agreement for the future maintenance of such data.

H) Project plans will be designed to preserve the anonymity of persons to whom the information relates, including where appropriate, name-stripping, coding of data, or other similar procedures.

I) Project findings and reports prepared for dissemination will not contain information which can reasonably be expected to be identifiable to a private person.

J) Upon completion of the project, the security of research or statistical information will be protected by either:

i. the complete physical destruction of all copies of the materials or the identified portions of the materials after a three year required recipient retention period or as soon as authorized by law; or

ii. the removal of identifiers from the data and separate maintenance of a name-code index in a secure location.

If you choose to keep a name-code index, you must maintain procedures to secure such an index.

Privacy Certificate

Grantee1, _____, certifies that data *identifiable to a private person*2 will not be used or revealed, except as authorized in 28 CFR Part 22, Sections 22.21 & 22.22.

Brief Description of Project (required by 28 CFR §22.23(b):

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

NOTE: If no data identifiable to a private person will be collected, this form is considered complete following insertion of the project description and the phrase "No data identifiable to a private person will be collected here." All other blanks should have inserted "Not applicable since this study is not collecting identifiable data". The form must then be signed and dated.

Grantee certifies that any private person from whom identifiable information is collected or obtained shall be notified, in accordance with 28 CFR §22.27, that such data will only be used or revealed for research or statistical purposes and that compliance with the request for information is not mandatory and participation in the project maybe terminated at any time. In addition, grantee certifies that where findings in a project cannot, by virtue of sample size or uniqueness of subject, be expected to totally conceal the identity of an individual, such individual shall be so advised.

Procedures to notify subjects that such data will only be used or revealed for research or statistical purposes and that compliance with the request for information is not mandatory and participation in the project maybe terminated at any time as required by 28 CFR §22.23(b)(4):

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

NOTE: Informed consent procedures and forms as approved by the IRB should be attached.

If notification of subjects is to be waived, pursuant to 28 CFR §22.27(c), please provide a justification:

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

Grantee certifies that project plans will be designed to preserve the confidentiality of private persons to whom information relates, including where appropriate, name-stripping, coding of data, or other similar procedures.

Procedures developed to preserve the confidentiality of personally identifiable information, as required by 28 CFR §22.23(b)(7):

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

Grantee certifies that, if applicable, a log will be maintained indicating that (1) identifiable data have been transferred to persons other than employees of NIJ, BJA, BJS, OJJDP, OVC, OJP, or grantee/contractor/subcontractor staff; and (2) such data have been returned or that alternative arrangements have been agreed upon for future maintenance of such data, in accordance with 28 CFR §22.23(b)(6).

Justification for the collection and/or maintenance of any data in identifiable form, if applicable:

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

Procedures for data storage, as required by 28 CFR §22.23(b)(5):

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

Grantee certifies that all contractors, subcontractors, and consultants requiring access to identifiable data will agree, through conditions in their subcontract or consultant agreement, to comply with the requirements of 28 CFR §22.24, regarding information transfer agreements. Grantee also certifies that NIJ will be provided with copies of any and all transfer agreements before they are executed as well as the name and title of the individual(s) with the authority to transfer data..

Description of any institutional limitations or restrictions on the transfer of data in identifiable form, if applicable:

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

Name and title of individual with the authority to transfer data:

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

Grantee certifies that access to the data will be limited to those employees having a need for such data and that such employees shall be advised of and agree in writing to comply with the regulations in 28 CFR Part 22.

Grantee certifies that all project personnel, including subcontractors, have been advised of and have agreed, in writing, to comply with all procedures to protect privacy and the confidentiality of personally identifiable information.

Access to data is restricted to the following individuals, as required by 28 CFR §22.23(b)(2):

Principal Investigator(s)

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

Project Staff

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

Contractors, Subcontractors, and/or consultants

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

Grantee certifies that adequate precautions will be taken to ensure administrative and physical

security of identifiable data and to preserve the confidentiality of the personally identifiable information.

Procedures to insure the physical and administrative security of data, as required by 28 CFR §22.25(b), including, if applicable, a description of those procedures used to secure a name index :

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet..

Procedures for the final disposition of data, as required by 28 CFR §22.25:

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

Name and title of individual authorized to determine the final disposition of data:

Delete this text and enter your response here. If you have more text than will fit in this field, please enter it on the blank pages at the end of this form or attach a separate sheet.

Grantee certifies that copies of all questionnaires, informed consent forms and informed consent procedures designed for use in the project are attached to this Privacy Certificate.

Grantee certifies that project findings and reports prepared for dissemination will not contain information which can reasonably be expected to be identifiable to a private person, except as authorized by 28 CFR §22.22.

Grantee certifies that the procedures described above are correct and shall be carried out.

Grantee certifies that the project will be conducted in accordance with all the requirements of the Omnibus Crime Control and Safe Streets Act of 1968 as amended and the regulations contained in 28 CFR Part 22.

Grantee certifies that NIJ shall be notified of any material change in any of the information provided in this Privacy Certificate.

Signature (s):

_____ (Principal Investigator)

_____ (Principal Investigator)

_____ (Institutional Representative)

Date:_____

Notes:

1 Please include the name of the Principal Investigator(s) for this project as well as the name of the person representing the institution receiving the grant funds.

2 *Information identifiable to a private person* is defined in 28 CFR §22.2(e) as "information which either--(1) Is labeled by name or other personal identifiers, or (2) Can, by virtue of sample size or other factors, be reasonably interpreted as referring to a particular person."

If needed, enter additional text here.

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