

In the  
Indiana Supreme Court



IN THE MATTER OF THE REQUEST BY THE )  
INDIANA CRIMINAL JUSTICE INSTITUTE )  
FOR RELEASE OF BULK DATA OR COMPILED ) CASE NO. 94S00-1508-MS-483  
INFORMATION EXCLUDED FROM PUBLIC )  
ACCESS )

ORDER GRANTING INDIANA CRIMINAL JUSTICE INSTITUTE’S REQUEST  
UNDER ADMINISTRATIVE RULE 9(F)(4) FOR RELEASE OF BULK DATA OR  
COMPILED INFORMATION THAT INCLUDES INFORMATION EXCLUDED FROM  
PUBLIC ACCESS UNDER ADMINISTRATIVE RULE 9

The Indiana Criminal Justice Institute (ICJI) has filed a Verified Request for Bulk Data/Compiled Information under Administrative Rule 9(F)(4). This request seeks to obtain specific data from all Indiana trial courts exercising jurisdiction over criminal and juvenile delinquency cases that is excluded from public access under Administrative Rule 9.

ICJI was established by the General Assembly in 1983 as a part of Indiana’s acceptance of the Omnibus Crime Control and Safe Streets Act of 1968, as amended. ICJI is mandated by I.C. 5-2-6 to perform various duties including the evaluation of the criminal and juvenile justice systems of the State of Indiana. Under I.C. 5-2-6-24, the Institute provides an annual assessment of the impact of criminal code reform upon county jails, community corrections programs, probation departments, and courts. The Institute is also required to make recommendations for reform based upon its analysis.

ICJI seeks access on a continuing, monthly basis to all case record data of all individuals charged in criminal and juvenile delinquency cases in Indiana including, but not limited to arrest, court referrals, diversion, juvenile detention, petitions filed, delinquency records, probation records, supervision records, placements, secured confinement records, and waivers (of juvenile jurisdiction). ICJI states the requested data is needed for it to comply with various federal statutes:

1. Juvenile Justice Detention and Prevention Act: 42 U.S.C. § 5601 et seq.,
2. Victims of Crime Act: 42 U.S.C. § 10601 et seq.,
3. Violence Against Women Act: 42 U.S.C. § 3796gg et seq.,
4. Family Violence Prevention and Services: 42 U.S.C. § 10401 et seq.,
5. National Highway Traffic Safety Administration: 49 CFR, Part 18 and 23 USC 402, 405, and 410,
6. Juvenile State Advisory Group: 42 U.S.C. 5633 § 223(a)(3), and
7. Justice Assistance Grant Program: 42 U.S.C. § 3750 et seq.,

and ensure its ability to act as the State Administering Agency (SAA) for multiple federal funding streams.

Under Admin. R. 9(G)(2), some of the requested data in criminal case records is not confidential, e.g. name (first, middle, and last including suffixes), date of birth, last residence address, Indiana Code citation for offense, date of offense, date of sentencing, case number, county name, and name of judicial officer. However, access, as sought by ICJI, would involve disclosure of information that is confidential:

1. complete social security numbers confidential under Admin. R. 9(G)(2)(f),
2. presentence reports confidential under Admin. R. 9(G)(2)(b) through I.C. 35-38-1-13,
3. probation records confidential under Admin. R. 9(G)(2)(b) as authorized by I.C. 11-13-1-8(b), and
4. juvenile court records confidential under Admin. R. 9(G)(2)(b) through I.C. 31-39-1-2.

The purposes of Admin. R. 9 include promoting accessibility to court records, contributing to public safety, promoting governmental accountability, and protecting individual privacy rights and interests. Admin. R. 9(A)(2). As a governmental agency, ICJI is entitled to consideration for greater access to court records. Admin. R. 9(B)(2). ICJI's expressed need for confidential case record information appears consistent with these purposes. As a result, the Court desires to cooperate to the fullest extent it can with successful completion of ICJI's duties while balancing and protecting the privacy rights and interests of individuals whose data will be examined.

The records sought are generally excluded from public access under Admin. R. 9(G) and access to bulk or compiled case records excluded from public access may be granted by this Court only under specific circumstances under Admin. R. 9(F)(4)(c). Under Admin. R. 9(F)(4)(a)(v), moreover, a request for bulk distribution or compiled information that includes information excluded from public access must provide for individual notice to all persons affected by the release of the information unless, upon prior notice to the Indiana Attorney General and a reasonable opportunity to respond, such individual notice requirement is waived by this Court. ICJI requested the Court waive the requirement for provision of individual notice to all persons affected by the release of the information.

The Indiana Attorney General has filed a Response as provided for under Admin. R. 9(F)(5) and does not oppose the requested waiver.

Accordingly, the Court finds that ICJI has shown by clear and convincing evidence that it has satisfied the requirements of Admin. R. 9(F)(4)(a)(i), (ii), (iii), and (iv), and the public interest will be served by allowing access.

The Court further finds the information sought by ICJI is consistent with the purposes of this rule, resources are available to prepare the information, and fulfilling the request is an appropriate use of public resources.

After consideration of the request for waiver of individual notice to individuals affected by release of the information excluded from public access, the Court finds by clear and convincing evidence that the purposes for which the information is sought substantially outweighs the privacy interests protected by this rule. Accordingly, due to the highly secure manner for the protection of the data, the Court waives the requirement of individual notice to all parties affected by release of the sought information to which public access is prohibited or restricted.

An order granting a request under this subsection may specify particular conditions or requirements for use of the information, including without limitation:

1. The confidential information will not be sold or otherwise distributed, directly or indirectly, to third parties; provided, however, that the results of ICJI's analysis and conclusions from its research may be utilized in the publication of scholarly article(s) or reports;
2. The confidential information will not be used directly or indirectly to sell a product or service to an individual or the general public;
3. The confidential information will not be copied or duplicated other than for the stated research; and
4. Access to the storage media containing the confidential data will be limited and, as appropriate, kept and stored in the secure data facility when not being used.

The Court finds that these conditions shall apply to the data sought by ICJI.

Administrative Rule 9(F)(4)(d) specifies that “[w]hen the request includes release of social security numbers, dates of birth, or addresses, the information provided may include only the last four digits of social security numbers, only the year of birth, and only the zip code of addresses.”

ICJI, as well as the Attorney General, acknowledges the sensitive and confidential nature of the individual records. ICJI has agreed to implementation of enhanced security standards as recently required of the Indiana Office of Technology and the Management Performance Hub. ICJI is willing to sign an agreement satisfying those requirements and the restrictions of Admin. R. 9(F)(4)(c) on public disclosure of the obtained confidential information.

The enhanced security standards require:

1. utilization of PGP encryption and SFTP transfer for the transfer of data from the Division of State Court Administration's Court Technology section to the recipient via the Indiana Office of Technology (IOT),
2. after the transfer, access was restricted by user-level password,
3. disassociation of the confidential identifying information as soon as possible,
4. retention of all data in a secure locked room within IOT,
5. performance of all analytical work on the data restricted to the IOT secure room by credentialed employees or agents who could not bring or remove materials to or from the room,
6. all security for the data was compliant with standards of the National Institute for Standards and Technology (NIST), and
7. upon completion of the study, but no later than a specified date, any sections of computer hard drives on which data is stored would be securely wiped.

The Court is convinced that these security measures can be followed in the transfer of data within the Odyssey Database and INCite to IOT for use by ICJI. Serious questions exist whether data can be transferred from non-Odyssey courts in compliance with the enhanced security standards. The Court, therefore, restricts the scope of the records that may be granted herein to those from courts utilizing the Odyssey Case Management System; provided, however, that as additional courts commence use of Odyssey during the record grant period, such additional court data shall be provided to ICJI for its use.

The Court has consistently restricted approvals of bulk or compiled data to one year periods, subject to renewal upon request, as set forth in the executed User Agreement. The suggested time period is considerably more restrictive than the three year restriction urged by the Attorney General and provides the Court with greater control and review options.

The Court hereby grants the request for Bulk Data/Compiled Information under Administrative Rule 9(F)(4) to the extent discussed herein. Specifically, ICJI shall receive data from Indiana Court Records and INcite from courts utilizing the Odyssey Case Management System exercising criminal and juvenile delinquency jurisdiction related to arrest, court referrals, diversion, juvenile detention, petitions filed, delinquency records, probation records, supervision records, placements, secured confinement records, and waivers (of juvenile jurisdiction). However, with regard to social security numbers, dates of birth, and addresses, the data provided is limited to the last four digits, the month and year of birth, and the zip code of the address.

Upon completion of its study, but no later than January 31, 2017, unless an extension of time is granted, ICJI will securely wipe any sections of computer hard drives on which the requested data is stored. The Division of State Court Administration may, if requested, grant one year renewals of the User Agreement, not to exceed three, without further consideration by the Court if the data sought in the proposed renewals does not change, other than for data from new Odyssey courts, and the prescribed enhanced security standards remain.

IT IS, THEREFORE, ORDERED that the Division of State Court Administration provide ICJI the data described in this order, without cost, upon the execution of a Confidential Bulk Data/Compiled Information User Agreement.

Done at Indianapolis, Indiana, on 2/4/2016.



Loretta H. Rush  
Chief Justice of Indiana

All Justices Concur.