

DATA USE AGREEMENT

CITY OF ALBANY, NEW YORK

AND

STATE UNIVERSITY OF NEW YORK, UNIVERSITY AT ALBANY

REGARDING DATA USE AND CONFIDENTIALITY

FOR THE

Albany Law Enforcement Assisted Diversion (LEAD) Project

This Data Use Agreement ("Agreement" or "DUA") is made and entered into as of March 15, 2022, by and between the "Site", which includes all of the agencies, organizations and entities listed in Section XII (A) as signatories of this Agreement ("Participating Agencies"), and the State University of New York, University at Albany ("UAlbany").

WHEREAS, the City of Albany Police Department, has conceived of the LEAD Project, a pre-arrest diversion initiative for individuals whose contact with law enforcement is driven by issues of mental health, substance use, and/or poverty (the "Project").

WHEREAS, the collection, processing, and reporting of data is crucial for determining the effectiveness of the Project, and for maintaining mutual accountability among stakeholders and the community.

WHEREAS, in order to participate in the Project, each Participating Agency has agreed, among other activities, to share data, which may include case-level data, regarding its clients and practices that will be used for the Project's purposes.

WHEREAS, the Parties desire to enter into this Agreement to define and record the terms by which data shared in furtherance of the Project may be used, stored, transferred and disclosed, among other provisions, by any Party and among the Parties.

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 **March 15, 2024** ("Scheduled Termination Date"), unless it is:

- a. extended, as provided pursuant to Section VII herein, or
- b. terminated earlier pursuant to Section VIII herein.

II. Definitions

- A. "Agreement" means this Data Use Agreement, including all documents attached or incorporated by reference.
- B. "Coordinating Data Liaison" refers to such employee of a Participating Agency that may be designated by parties in this agreement to collect, consolidate and/or coordinate, as necessary, the disclosure of the Data, as defined below, on behalf of some or all Participating Agencies in the project. A Coordinating Data Liaison will only be designated for the Site if the Data from some or all of the Participating Agencies are already integrated, such as in a Data Warehouse, or require consolidation or merging for the purposes of the Project. The Coordinating Data Liaison, if any, is identified in Section IX of this Agreement.
- C. "Data" refers to the information that is directly transferred from one Party to another, including the elements listed in Exhibit A as well as any others provided in response to any other requests for Data from UAlbany or other parties.
- D. "Data Liaison" refers to such representatives of UAlbany and each Participating Agency that is designated by such Party to communicate with the other Parties regarding the Data to be shared. The Data Liaison for each Participating Agency is identified in Section IX of this Agreement.
- E. "PII" or "Personally Identifiable Information" is information that directly identifies or uniquely describes a particular individual or event or that might be used, either directly or in combination with other publicly-available information, to ascertain the identity of a particular individual (e.g., docket number, case number, Master Name Index [MNI] number, NYSID number, SSN, student ID).
- F. "Research Products" are any written publications or reports, presentations, or other materials produced by UAlbany that are generally accessible to the public and that convey the findings or outcomes of the Project. Research Products shall not contain PII.

III. Data transfer

- A. On or before 4/1/2022, each Participating Agency will transfer to UAlbany the Data delineated in its respective section of the Data Elements List set forth in Exhibit A (the "List"), in the format specified in Exhibit A, unless such Data cannot be reasonably collected. The List may be amended as warranted by the mutual written consent of UAlbany and the respective Participating Agency. For this purpose only, the requirement of writing may be satisfied through email correspondence between UAlbany and the Data Liaison for the Participating Agency, which clearly confirms that both parties agree to the amendment.
- B. Notwithstanding the foregoing, if a Coordinating Data Liaison has been appointed pursuant to the Agreement, then the Participating Agencies shall transfer Data to

the Coordinating Data Liaison, who shall be responsible for collecting Data from the Participating Agencies, consolidating and de-identifying, as necessary, such Data, and transferring, on or before July 15, 2022, the Data in its possession and delineated in the List to UAlbany.

- C. All case-level Data to be transferred electronically will be transferred using a secure file transfer protocol, a Secure Socket Layer (SSL) certified, password protected file sharing system that is used for secure data exchange. Case-level Data shall be encrypted in transit, using secure, authenticated, and industry-accepted encryption mechanisms.

IV. Data storage

- A. All Data transferred to UAlbany are confidential. UAlbany will hold all Data in a secure manner and will protect them from disclosure, except as specifically provided in this Agreement.
- B. Data in electronic form shall be stored on secure computer hard-drives that require credentialed log-in for individual access. All access to such Data shall be restricted to authorized users who have been authenticated through secure password and log-in.
- C. UAlbany shall not store or transfer any data on any unencrypted electronic portable devices. If data is stored on an encrypted electronic portable device, that device must be kept in a locked and secured cabinet or safe at all times when not in use.
- D. UAlbany will limit the use of paper, hard-copy files or documents that contain Data to the minimum extent necessary. Such hard copy materials will be stored in locked drawers and cabinets, with access limited to authorized personnel.

V. UAlbany's Use and Disclosure of Data

- A. UAlbany, including its respective employees, agents and subcontractors, will not use the Data received under this Agreement for any purpose other than as necessary for the fulfillment of the Project-related responsibilities set forth in this Section. Accordingly, UAlbany will not match or link any of the Data received or produced under the terms of this Agreement with any datasets that are unrelated to the Project. UAlbany will not contact any individual whose records are contained in the Data.
- B. UAlbany will limit access to any Data to employees who have received training on: data security and the protocols that are necessary to secure confidential materials, including, where appropriate for the performance of their duties, training and certification in the Protection of Human Subjects by the

Collaborative Institutional Training Initiative (CITI) or a similar body regarding the proper handling of confidential data; the importance of confidentiality; and the requirements of this Agreement.

- C. UAlbany will only use the Data for the specific purposes of:
 - a. Cleaning, recoding, and analyzing Data from the Site;
 - b. To the extent possible, consolidating Data from the Site with Data from other jurisdictions participating in the Project; and
 - c. Creating the Research Products as set forth in Section VI.
- D. UAlbany will not re-disclose the Data to any party other than through the dissemination and publication of Research Products, except as required by law. In the event that UAlbany receives a request from a third party that compels disclosure of Data as a matter of law, UAlbany will abide by all Federal, State and local statutes regarding the confidentiality of the information requested. Unless prohibited by law, UAlbany will notify the Lead Agency and/or the Participating Agency to which the Data belongs in a timely manner whenever it receives a request from a third party for Data, and confer with the Lead Agency and/or such Participating Agency to determine an appropriate response.
- E. Case-level Data that are disclosed from UAlbany to a third party if required by law, shall be transferred using a secure file transfer protocol, ensuring that it is 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.

VI. Research Products

- A. It is anticipated that UAlbany will create the following Research Products for the Project:
 - a. One or more peer-reviewed academic journal articles; and
 - b. A summary report for the Policy Coordinating Group
- B. No PHI will be reported in any Research Product. The Site and Participating Agencies may be identified by name and discussed in Research Products.
- C. UAlbany will provide an opportunity to review each written Research Product that contains Data, prior to its publication, to each Participating Agency that supplied Data that informed or is reflected in the Research Product. The purpose of this review is to enable the relevant Participating Agencies to (a) identify factual errors or inaccuracies and provide information or corrections regarding these and (b) suggest additional contextual information that might aid in the interpretation of the material. The feedback provided may or may not be reflected in the final publication.

VII. Extension of Agreement

- A. The Parties understand that UAlbany may decide to extend the term of the Agreement and the corresponding collection and/or analysis of Data. In that case, UAlbany will notify the the Participating Agencies no less than 60 days before the Scheduled Termination Date and identify the new date upon which this Agreement shall expire (the “Extended Termination Date”), which shall not extend past the Scheduled Termination Date by more than sixty (60) days without the other Parties’ consent (the Scheduled Termination Date and the Extended Termination Date, together, the “Termination Date”).
- B. UAlbany intends for the Project to be part of a larger body of work on identifying and responding to the target populations. Should the Project lead to future work that directly builds on the Project, UAlbany may wish to use Data obtained from the Site in future analyses; such use will be limited to work directly building on the Project and will not be used for unrelated work (“Future Related Work”). Written notification will be provided to the Site prior to using the Data for Future Related Work, and all Participating Agencies will be given the chance to opt out of having their Data used for such work. The protections enumerated in this Agreement as relates to UAlbany’s storage, use and disclosure of the Data will extend to all Future Related Work.

VIII. Early Termination of Agreement

- A. Full participation of the Parties is incumbent for the success of the Project. Notwithstanding the foregoing, any Party may early terminate its participation in this Agreement at any time prior to the Termination Date, in accordance with the provisions of this Section.
- B. Any Party seeking to early terminate its participation in this Agreement must submit written notice of such early termination to the other Parties, specifying the effective date of the termination of their participation.
- C. If a Participating Agency early terminates its participation in this Agreement, only such Participating Agency’s obligations shall be terminated and the Agreement shall remain in full force and effect as to the remaining Parties. If UAlbany early terminates its participation in this Agreement, such termination shall automatically terminate the Agreement in its entirety.
- D. In the event that any Participating Agency seeks to terminate the Agreement due to an uncorrected breach of a material term of the Agreement, it is requested that such Participating Agency sends written notification to UAlbany stating that it believes there has been a material breach of this Agreement, specifying its reasons for such belief. Such Party would meet with UAlbany within ten business days of

receipt of the notification to discuss the alleged breach and attempt to cure or resolve it.

IX. Data Liaisons and Coordinating Data Liaison

A. Data Liaisons

The Participating Agencies designate the following individuals to be their respective Data Liaisons:

1. For the Albany Police Department
Name: Sgt. Ben Peterson
Email address: bpeterson@albanyny.gov
Telephone:
2. For Catholic Charities Care Coordination Services
Name: Diana Macy
Email Address: dianam@ccalbany.org
Telephone:
3. For St. Catherine's Center for Children
Name: Kristin Michael
Email Address: kmichael@st-cath.org
Telephone:
4. For the Albany County Sheriff's Office
Name: Investigator Amy Kowalski
Email address: amy.kowalski@albanycountyny.gov
Telephone:
5. For the Albany County Department of Mental Health
Name: Lance Rider
Email address: Lance.Rider@albanycountyny.gov
Telephone:

B. Coordinating Data Liaison

The Albany Police Department designates the following individuals to be Coordinating Data Liaisons:

1. For linking criminal justice data
Name:
Agency name: Albany Crime Analysis Center
Email address:
Telephone:

2. For linking health and service-related data
Name: Diana Macy
Agency name: Catholic Charities Care Coordination Services
Email address: dianam@ccalbany.org
Telephone:
3. For linking health and service-related data
Name: Kristin Michael
Agency name: St. Catherine's Center for Children
Email address: kmichael@st-cath.org
Telephone:
4. For linking jail data
Name: Investigator Amy Kowalski
Agency name: Albany County Sheriff's Office
Email address: amy.kowalski@albanycountyny.gov
Telephone:
5. For linking behavioral health data
Name: Lance Rider
Agency name: Albany County Department of Mental Health
Email address: Lance.Rider@albanycountyny.gov
Telephone:

C. UAlbany designates the following individual to be its Data Liaison:

Name:
Email address:
Telephone:

In the event that either party designates other individuals to serve as Data Liaisons during the course of the Agreement, they will provide prior notification to each other, along with the new Data Liaisons' contact information. Such notification may be accomplished through email, with each party using a notice that is signed and scanned.

X. Survival of Provisions

All provisions of this Agreement regarding the confidentiality, security and permitted use of the Data shall survive the termination of this Agreement.

XI. 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 herein. This Agreement supersedes any and all prior understandings, representations, negotiations, discussions, and agreements between the parties relating hereto, whether written or oral.

XII. Signatories

Each of the individuals signing below certifies that he or she has authority to execute this Agreement on behalf of the named agency or entity.

- A. State University of New York at Albany
One University Place
Rensselaer, NY 12144

By: _____
[INSERT PRINTED NAME]

Date: _____

- B. Albany Police Department
165 Henry Johnson Boulevard
Albany, NY 12210

By: _____
[INSERT PRINTED NAME]

Date: _____

- C. Catholic Charities Care Coordination Services
100 Slingerland Street
Albany, NY 12203

By: _____
[INSERT PRINTED NAME]

Date: _____

- D. St. Catherine's Center for Children
40 North Main Avenue

Albany, NY 12203

By: _____
[INSERT PRINTED NAME]

Date: _____

- E. Albany County Department of Mental Health
175 Green Street
Albany, NY 12202

By: _____
[INSERT PRINTED NAME]

Date: _____

- F. Albany County Sheriff's Office
16 Eagle Street
Albany, NY 11207

By: _____
[INSERT PRINTED NAME]

Date: _____

- G. Albany County Probation Department
60 South Pearl Street
Albany, NY 12207

By: _____
[INSERT PRINTED NAME]

Date: _____

Exhibit A. Data Elements List

Crime Analysis Center

For all individuals arrested since April 1, 2016 (Albany LEAD program's implementation date):

- Age
- Gender
- Race
- Ethnicity
- Height
- Weight
- Zip code
- Arrest location
- Arrest time
- Arresting Officer (de-identified)
- Offense(s) – [LEAD eligible or ineligible]
- Number and date(s) of arrests since April 1, 2016
 - Number and date(s) of arrests resulting in jail admission since April 1, 2016.
- Number and date(s) of contacts with law enforcement not resulting in arrests for safety since April 1, 2016.
- Number and date(s) of contact with law enforcement resulting in diversion to mental health or substance abuse treatment since April 1, 2016 (LEAD, Health Hub).
 - Specify type
- Number and date(s) of contact with law enforcement resulting in diversion to social services in past two year (e.g., homelessness services)

For all individuals arrested on a LEAD eligible offense but not diverted into the LEAD program since April 1, 2016 (or the most recent two-year period available):

- Recorded reason for non-diversion

For all individuals arrested on a LEAD ineligible offense and diverted into the LEAD program since April 1, 2016 (or the most recent two-year period available):

- Reason(s) for diversion (psychosocial drivers - mental illness, substance abuse, homelessness or poverty).
- Clients' recidivism (arrests and other police contacts)

Catholic Charities Care Coordination Services

For all individuals diverted into the LEAD program since April 1, 2016:

- Results from any risk assessments or screening instruments for mental health, substance abuse, or homelessness
- Medicaid eligibility at any time in the past two years
- Medicaid enrollment at any time in the past two years
- Private insurance enrollment at any time in the past two years
- Insurance status at the time of most recent behavioral health contact
- Mental health flag (from community providers, jail or pre-trial assessments, or both)
- Substance abuse flag (from community providers, jail or pre-trial assessments, or both)
- Type(s) of mental health service contacted (e.g., crisis center, outpatient therapy, inpatient therapy)
- Flag for whether contact with mental health service was self-initiated, related to involuntary commitment, or part of a diversion program
- Serious mental illness flag
- Type(s) of substance abuse treatment (e.g., detox center, outpatient therapy, inpatient therapy)
- Flag for whether substance abuse was related to alcohol
- Flag for whether substance abuse was related to drugs
 - Primary substance used
- Type(s) of homelessness related services (e.g., homeless shelter placements, permanent housing)
- Human services datasets (e.g., SNAP, etc.)
- Hospital admissions and reason for admission
- Other applicable healthcare datasets

St. Catherine's Center for Children

For all individuals diverted into the LEAD program and receiving services from St. Catherine's since April 1, 2016:

- Results from any risk assessments or screening instruments for mental health, substance abuse, or homelessness
- Medicaid eligibility at any time in the past two years
- Medicaid enrollment at any time in the past two years
- Private insurance enrollment at any time in the past two years
- Insurance status at the time of most recent behavioral health contact
- Mental health flag (from community providers, jail or pre-trial assessments, or both)
- Substance abuse flag (from community providers, jail or pre-trial assessments, or both)
- Type(s) of mental health service contacted (e.g., crisis center, outpatient therapy, inpatient therapy)
- Flag for whether contact with mental health service was self-initiated, related to involuntary commitment, or part of a diversion program
- Serious mental illness flag
- Type(s) of substance abuse treatment (e.g., detox center, outpatient therapy, inpatient therapy)
- Flag for whether substance abuse was related to alcohol
- Flag for whether substance abuse was related to drugs
 - Primary substance used
- Type(s) of homelessness related services (e.g., homeless shelter placements, permanent housing)
- Human services datasets (e.g., SNAP, etc.)
- Hospital admissions and reason for admission
- Other applicable healthcare datasets

Albany County Department of Mental Health

For individuals diverted into the LEAD program since April 1, 2016:

- Age
- Gender
- Race
- Ethnicity
- Zip code
- Homelessness flag
- Medicaid eligibility at any time in the past two years
- Medicaid enrollment at any time in the past two years
- Private insurance enrollment at any time in the past two years
- Insurance status at the time of most recent behavioral health contact
- Mental health flag (from community providers, jail or pre-trial assessments, or both)
- Substance abuse flag (from community providers, jail or pre-trial assessments, or both)
- Number of mental health service contacts in past two years
 - Date(s) of mental health service contact in past two years
- Type(s) of mental health service contacted (e.g., crisis center, outpatient therapy, inpatient therapy)
- Flag for whether contact with mental health service was self-initiated, related to involuntary commitment, or part of a diversion program
- Serious mental illness flag
- Number of substance abuse treatment contacts in past two years
 - Date(s) of substance abuse treatment
- Type(s) of substance abuse treatment (e.g., detox center, outpatient therapy, inpatient therapy)
- Flag for whether substance abuse was related to alcohol
- Flag for whether substance abuse was related to drugs
 - Primary substance used

Albany County Sheriff's Office

For individuals diverted into the LEAD program and admitted to jail since April 1, 2016:

- Age
- Gender
- Race
- Ethnicity
- Zip code
- Number and date(s) of arrests resulting in jail admissions in the past two years
- Number of jail admissions in past two years
 - Number of pre-trial jail admissions
 - Number of post-trial jail admissions
- Charge(s) associated with jail admissions in past two years
- Date(s) of admissions to jail in past two years
- Date(s) of releases from jail in past two years
 - Reason for release(s)
 - Where released to (e.g., prison, community)
- Total number of days spent in jail in past two years
- Total number of prior arrests resulting in jail admissions (not just in past two years)
- Total number of prior jail admissions (not just in past two years)
- Homelessness flag
- Medicaid eligibility at time of booking
- Medicaid enrollment status at time of booking
- Jail mental health flag
- Jail mental health pod flag
- Jail substance abuse flag
- Jail substance abuse pod flag
- Flag for whether substance abuse was related to alcohol (e.g., ICD-9 code)
- Flag for whether substance abuse was related to drugs (e.g., ICD-9 code)
 - Primary substance used
- Flag for jail mental health treatment in the past two years
 - Type(s) of mental health treatment utilized
- Flag for prescription of any medications related to behavioral health while in custody
 - Names of medication(s) prescribed while in custody
- Name(s) of any treatment programs individual was enrolled in while in custody (e.g., Alcoholics Anonymous, Narcotics Anonymous)
- Results from any risk assessments or screening instruments for mental health, substance abuse, or homelessness

Albany County Probation

For individuals diverted into the LEAD program and under the supervision of Albany County Probation since April 1, 2016:

- Age
- Gender
- Race
- Ethnicity
- Zip code
- Admission date
- Discharge date
- Release Type (term completed, revocation, etc.)
- Probation time served
- Conviction Charge/Charge Type/Level
- Probationer Supervision/Risk Level
- Probationer Classification/Assessment (drug abuse, mental health, homeless, health insurance)