

volume one

## **In Brief**

# **Information Sharing and Confidentiality**

Written by Bridgett E. Jones, J.D. with assistance from Andrea Shorter and Tricia Stapleton from The Center on Juvenile & Criminal Justice

**A Legal Primer to Help the Community, the Bench and the Bar Implement  
Change in the Juvenile Justice System  
Funded by The Robert Wood Johnson Foundation**

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# foreword

*Revere and protect what is small.  
The universe is made of small things, of children.  
Hear children.*

-Gwendolyn Brooks

It has been just over a century since government agencies began to intervene in the lives of young people and their families in an effort to promote healthy communities. Indeed, since the establishment of the first juvenile court in 1899, other government entities have taken responsibility for the education, well-being and care of young people. These inter-governmental responsibilities have resulted in a maze of laws, regulations, policies, dictates, and practices.

Anyone working with children, youth, families and communities will eventually have to negotiate this often confusing and complex labyrinth on a regular basis. Issues regarding the need to share information, the guiding principles which inform that sharing, and protocols to implement information exchange are clearly provided in this most important work.

Kudos to Bridgett Jones and Andrea Shorter for this most noteworthy undertaking. It should make it easier for all youth-serving agencies to provide better service by “listening to the children” and acting in their best interest.

James Bell, Executive Director  
W. Haywood Burns Institute  
February, 2002

# acknowledgements

This monograph is a response to cries throughout the county for guidance on legally and ethically sharing information across disciplines. It is a basic orientation and overview of confidentiality statutes and information-sharing principles. It is not intended to be an exhaustive treatise on those subjects.

Many individuals, my personal experience in the field of juvenile justice, and written resources have influenced my thinking about the law in this area. I wish to express my gratitude to all of the individuals who helped with the research and content review of this document.

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Thank you all for your contribution to this effort. Bridgett E. Jones, J.D.

# chapter one

## Introduction

Since 1990, The Robert Wood Johnson Foundation has supported an expansive array of strategically aimed projects to decrease substance abuse and improve the health and functioning of a variety of high-risk groups. Reclaiming Futures, which builds community solutions to substance abuse and delinquency, is one such project.

Increasingly, substance-abusing youth are ending up in the juvenile justice system. Most estimates indicate more than 60% of the 1.7 million youth processed through the juvenile justice system each year suffer from some substance abuse-related problem. The juvenile justice system presents an opportunity to intervene strategically with a large number of substance-abusing youth. Yet the highly fragmented juvenile justice system is ill equipped to handle the multiple needs of the substance-abusing youth who are processed through this system. A coordinated juvenile justice, treatment, and community response is needed.

The major objective of Reclaiming Futures is to create seamless community systems of care that can habilitate substance-abusing youth who are making their way through the juvenile justice system. The Reclaiming Futures National Program Office (NPO) was established in Portland, Oregon in June 2000 to launch a national effort to reclaim these substance-abusing youth. Recognizing that confidentiality rules and competing philosophies about information sharing is a potential barrier to the success of the project, this legal primer serves as a practice guide. It is written to assist communities that are willing to take on the challenge of appropriately sharing and protecting the information required to support these youth. The intended audience is professionals

working with youth in the juvenile justice system. Anticipated users include, but are not be limited to legal staff, treatment providers, probation officers, judges, and representatives from education, community-based organizations, parents, youth and other community members.

Reclaiming Futures is a \$21 million Robert Wood Johnson Foundation initiative. It is designed to build community solutions to substance abuse and delinquency by developing the systems infrastructure to deliver comprehensive care within the juvenile justice system. To accomplish this, a partnership has been formed that consists of the legal staff, treatment providers, probation officers, judges, social/human service agencies, mental health, education, community based organizations, pro-social agencies, parents, and youth.

Two of the most frequently cited barriers to delivering comprehensive, integrated services to substance-abusing youth in the juvenile justice system, are (a) lack of information sharing among agencies and (b) confidentiality. Several factors help to create the barrier

- Lack of technology
- Lack of a procedure or mechanism to make information sharing possible
- Lack of communication between systems
- Policies and procedures that prohibit sharing of information
- Real and perceived confidentiality barriers
- Legal restrictions
- Ignorance of the law
- Fear of misuse of information

Knowledge of important legal and ethical principles can help ensure that services for youth are appropriate and that

existing resources are not duplicated or underutilized. The delivery of comprehensive services is not possible without good information. It is critical that any network or collaborative intending to serve youth and families has established written policies and procedures that govern the protection of client confidentiality. Many professionals working with youth and families approach participation in programs that require information sharing with caution. Often they have legitimate concerns about the privacy of the youth and family and about liability. This reflects a general awareness of legal restrictions on information sharing. However, the information in this primer makes it clear that confidentiality laws need not impede full participation by those who wish to provide support and services to substance-abusing youth in the juvenile justice system. Legal staff, treatment providers, probation officers, judges, social/human service agencies, mental health, education, community based organizations, pro-social agencies, parents, and all who will make up the system of care for these youth share a common ultimate goal. The goal is to see all children grow and thrive in safe homes, schools, and communities and become sober, healthy, productive members of society. In today's environment there is a growing expectation that organizations and communities will routinely work together to help families and youth. Therefore, information exchanges should be the norm and not the exception. Not only will organizations be more likely to be involved in the exchanges but also more detailed information may be required than ever before.

Although legal issues present one type of potential barrier to the delivery of comprehensive and integrated services, other barriers include professional disciplinary differences, agency mission, philosophy and priorities; agency authority and control; agency capacity (e.g. staffing, expertise, workload); intervention approaches; facility/community orientation; professional disciplinary differences, complicated categorical funding streams, and programmatic difficulties. All of these barriers must be overcome to build an effective system of care.

That being said, this *In Brief* series is about success through teamwork. It was written to help overcome the challenges and to achieve success with every youth and family. Collaborative projects with their challenges and responsibilities may be willingly accepted or thrust upon those working to help substance-abusing youth. In either case, this volume is not intended to teach all there is to know about the law of information sharing, confidentiality or ethics. It is intended to give a head start with some basic ideology, definitions, methods and processes in an easy-to-learn, quick implementation format. A few examples are placed throughout this primer in the "Keeping It Real" boxes for discussion and illustration of a few key points. The answers are contained in the back before the endnote section. An information and technical assistance resource bibliography is also provided for further research.

Historically, a great deal of information regarding young people involved in the juvenile justice system was kept private and even expunged at some point. There has been a shift in many states in the status accorded juvenile justice-involved young people in

general and this extends to confidentiality and information sharing. In those states which have become more punitive in their approach to young people, manifestations of get tough on kids and the erosion of the juvenile court, juvenile records are now more available and in many instances permanent. With the rash of recent school shootings, the laws pertaining to disclosure of school records have also become more accessible. Although the approach to confidentiality and information sharing has become less protective for youth in these systems, information to be disclosed regarding alcohol and drug use and treatment are still protected by stringent federal regulations and standards including 42 CFR and HIPAA.

This document is a basic orientation and overview of confidentiality statutes and information sharing principles. It is not intended to be an exhaustive treatise on those subjects. A more detailed discussion of relevant professional ethics issues is contained in Volume Two of this *In Brief* series. Readers of this series are encouraged to submit additional questions so that they can be addressed in subsequent publications on this topic. Additional free copies of this report may be downloaded from the Reclaiming Futures website at [www.reclaimingfutures.org](http://www.reclaimingfutures.org).

## chapter two

### Back To Basics-The Fundamentals of Sharing

#### DEFINING TERMS

These are listed below to assist in tackling the complex maze of confidentiality laws and their application.

**Confidential Information** – Private information about an individual intended for a specific purpose.

**Information Sharing** – Communicating specific information about a particular youth or family between organizations.

**Statutory Privilege** – A statute that protects communications between certain professionals and their clients, including clients who are minors. State statutes generally contain the basic privileges between doctors and patients, mental health professionals and clients, substance abuse professionals and clients, attorneys and clients, husbands and wives, clergy and those seeking their counsel. These statutes establish a duty for professionals not to reveal privileged communications.

**Privileged Communication** – Statements made by one person to another when there is a necessary relation of trust and confidence between them that the recipient cannot be compelled to disclose.<sup>1</sup>

**Consent** – Voluntary agreement.

**Informed Consent** – (In this context)

Voluntary agreement after the individual is informed and understands what information will be exchanged, with whom it will be shared, and how it will be used.

**Disclosure** – To reveal or make known information.

**Memorandum of Understanding** – (In this context) A documented interagency agreement that sets forth the parameters of the agreed-upon approach to the sharing of

information. It formalizes organization-to-organization connections.

#### GUIDING PRINCIPLES

Confidentiality laws are a way to protect people from unwarranted invasions of their privacy and from use of information for an unintended purpose. The rules also protect people from the repercussions that could result because of negative public attitudes. The basic premise is that personal information is given, collected or recorded for a specific reason and that, unless there is an overriding justification, the information should not be used for other purposes without the individual's concurrence. The role of the person who receives confidential information is essentially (though not always legally) that of a fiduciary, who is "in place" in order to accomplish some desirable result for a "client" or "customer" or "patient." Confidentiality laws also protect organizations and their staff from being forced to disclose confidences or to act as agents of law enforcement.

Confidentiality restrictions are not limited to government. A number of professionals – doctors, mental health workers, social workers, attorneys, substance-abuse treatment professionals, and teachers – may have legal obligations or strong ethical standards that prohibit release of information about a patient, client or student without consent. There is recognition that people often seek help in a state of vulnerability. The willingness to describe a situation candidly is essential to the relationship, and an individual's willingness to speak freely might be fundamentally

impaired without an assurance of confidentiality.

A confidentiality provision is not necessarily a blanket prohibition against service providers and court and school staff communicating to coordinate services. It is simply a protection against sharing information over a person's objection or sharing information that does not serve a specific purpose in the youth or family's best interest.<sup>2</sup>

What information should be shared? In today's complex and computerized world, more and more information is collected and stored about individuals, often routinely and without knowledge of the people involved. Confidentiality statutes and agency practices increasingly emphasize that workers collect, maintain, and share only the information relevant to the agency's purpose. This means that an agency needs to know in advance the types of information it may need, and have an equally clear understanding of unneeded information. More information is not necessarily better. Although it is true that a lawyer who provides a defense to a youth or family member usually needs as much information as possible, it is frequently true that collecting excess and irrelevant information can be costly and work against the agency and client's best interest in the following ways.

- It increases the costs of storage and management.
- It increases the danger that unreliable or inaccurate information may be shared with other agencies.
- It increases the danger of inappropriate and damaging disclosure.
- It is time consuming.

The maxim that it is a bad idea to collect excess and irrelevant information holds true

for all agencies. It is critical that agencies and programs establish written policies and procedures that govern the protection of client confidentiality. It is recommended that providers consult with specialists to assist in creating policies and drafting consent forms for their projects. In all agency functions, the information collected and recorded should be limited to the data genuinely needed to fulfill that agency's goals. This principle is especially important with computerized data systems. Limitless computer memory capacities may encourage staff to collect and record all kinds of interesting information that might not relate to program aims. In some situations, detailed information should not be kept in client files even though it may be relevant to the agency's work. For example, it may be sufficient to note in a client's record (or in a data file), the fact that the client received medical care, instead of recording the details of the client's medical condition and course of treatment. If another agency has a valid need for more information about the client's medical history, it can obtain a specific release for the medical information from the client.<sup>3</sup>

# chapter three

## Why the Reluctance to Share? – Privacy Interests

Protections have been established to prevent information from disclosure for legitimate reasons. This is especially true of information requests from agencies that deal with youth and families. This chapter will analyze the interest of youth and families in protecting personal information from disclosure before moving on to the task of demystifying confidentiality as a barrier to interagency efforts. It will explore 10 primary reasons for privacy interest protection.<sup>4</sup>

### 10 COMMON REASONS FOR CONFIDENTIALITY PROTECTIONS<sup>5</sup>

#### 1. The Right to be Let Alone

In a famous opinion, U.S. Supreme Court Justice Louis Brandeis summarized the principles underlying the constitutional guarantees of privacy. *The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone – the most comprehensive of rights and the right most valued by civilized men.*<sup>6</sup>

When children and youth become involved with systems such as the juvenile justice system, they often are asked to share some of the most intimate and private information. This information often includes medical or mental health history, alcohol or other

substance abuse information, education and family status, income and employment status, and juvenile court records.

Confidentiality restrictions have been developed to protect the privacy of individuals and ensure that personal information is disclosed only where needed.

#### 2. To Avoid Embarrassment and Humiliation

Some information requested by agencies is embarrassing and humiliating – histories of emotional instability, marital conflicts, medical problems, physical or sexual abuse, alcoholism, drug use, limited education, or erratic employment. It is difficult to share this intimate information even with agencies that are authorized to receive it to provide effective services. It is much more difficult if youth and families believe that the information will be revealed. This is especially true if there is no perceived benefit for sharing information.

#### 3. To Avoid Exposure of Inflammatory Information

Confidentiality provisions are designed to protect youth and families from the improper dissemination of inflammatory information (e.g. HIV status, mental health history, use of illegal drugs, charges of child abuse, etc). Disclosure of such information could do great harm, particularly if the records show that the information is unproven or inaccurate.

#### 4. To Protect Personal Security

Sometimes protecting confidential information is necessary for protecting personal security. For example, in domestic violence situations, once the victim has left

home, if law enforcement or probation personnel disclose the new location (e.g. with family or friends, or at a shelter), that person might be in great danger. Another instance is when a person witnesses a crime.

#### **5. To Protect Family Security**

Disclosure of certain information also may jeopardize family security. For example, many immigrant families are reluctant to use public health clinics or other social services, even if they are assured that the information will be kept confidential. These families may fear that the Immigration and Naturalization Service (INS) will learn of their lack of citizenship and take action.<sup>7</sup>

#### **6. To Protect Job Security**

Information given to human service agencies also can be harmful if a person's employer or potential employer learns of it. While the information – such as history of mental health treatment may have no connection with a person's actual job performance, it may nevertheless jeopardize the individual's job security. It also might hinder a likelihood of promotion or an ability to find a new position even though this would clearly be in violation of the Americans with Disabilities Act (ADA).

#### **7. To Avoid Prejudice or Differential Treatment**

Youth and families also may avoid possible prejudice or differential treatment from people like teachers, school administrators, and service providers. For example, if teachers learn that certain students are eligible for food stamps or free school lunches, they may lower their academic expectations of the students simply because their families are poor. This can set in motion a self-fulfilling prophecy in which lowered

expectations result in a lowered performance. Similarly, juvenile court records and proceedings have long been kept confidential on the grounds that a child labeled “delinquent” will suffer from prejudice and discrimination for years.

#### **8. To Prevent Denial of Discretionary Services**

Youth and families also have an interest in preventing the denial of discretionary services. For example, the New York City Department of Juvenile Justice has an obligation to monitor youth under its jurisdiction and verify that they are satisfactorily attending school. The school records are covered by federal educational privacy restrictions, so the Department routinely obtains consent from the parents for release of the attendance information. Parents whose children attend private or parochial schools, however, may refuse to sign the consent for fear that the schools will expel the youth if they learn of legal troubles.

#### **9. To Encourage Adolescents To Seek Medical Care**

Aware of the growing problems of teenage pregnancy, alcohol and substance abuse, and HIV and other sexually transmitted diseases, many courts and state legislatures have created special laws and procedures to encourage adolescents to seek medical care. Some adolescents worry that asking for contraceptives or abortion information will make their parents angry or upset, and consequently will not seek medical advice if their parents are informed. The special laws and procedures recognize the critical need for confidentiality if adolescents are to have access to health care.<sup>8</sup>

#### **10. To Reestablish Privacy Boundaries For Children**

Many youth involved with service agencies have suffered repeated violations of personal

privacy. They have been abused by parents or relatives, transferred from one So where do we draw the lines? The interests of youth and families in personal privacy are of undeniable importance, but they only represent one part of the equation. When youth and families need services, the individual's "right to be left alone" runs head first into the agency's need to share information for effective and efficient provision of services. Thus, the proper role of the confidentiality provisions in delivering comprehensive, integrated services to substance-abusing youth in the juvenile justice system depends upon the balancing of these interests. foster placement to another, or treated like commodities on an assembly line by harried or overworked staff. Respect for confidentiality rights is particularly crucial for such young people. It allows them to exert some measure of control over their world and to develop a degree of trust in those around them.

## Keeping It Real #1

**Andrew, 17, is a ward of the juvenile court that is represented by the public defender's office and is currently participating in your integrated network system. Andy is scheduled for court today. Yesterday he met with his attorney and disclosed that he had used marijuana but had cheated the drug test. A memorandum of understanding to share information is in existence, which the public defender's office signed. The client tells the public defender to keep this information in confidence. Does the public defender have an obligation to share this information with the team?**

Answer pg. 35

# chapter four

## The Need For Information Sharing

So why do agencies need to share information at all? This question must be asked because the reason for sharing information will often affect what information is relevant and how it needs to be shared.

Many substance-abusing juvenile offenders have multiple problems and multiple risk factors that cause multiple histories to exist in multiple systems. They may have medical problems that shed light on their behaviors. They may have had prior brushes with the law, or may have been picked up for truancy or curfew violations. It is almost guaranteed that they have probably been in one or more schools. Often, several different organizations are working with the youth and family simultaneously. Both the agencies and the family may benefit significantly from greater cross-system information sharing and collaboration. Agencies frequently need information from other agencies to serve youth and families effectively and efficiently.

### 10 COMMON REASONS FOR INFORMATION SHARING AND EXAMPLES OF IT IN ACTION

#### 1. To Ensure That People Are Getting the Help They Need

Example: A caseworker seeking to ensure that a client is receiving all eligible services calls the service provider to find out whether benefits have been started or denied. In another example, a service provider seeks to identify and contact possible clients to let them know about its services. These situations may require an exchange of information, but they might be handled differently.

#### 2. To Ensure Continuity of Services

Example: A change in the circumstances of a youth or family may occur. A youth goes from middle school to high school or the family moves to a new location. This means the schools must communicate. If the school is coordinating services with the community then the new school must have access to that information.

#### 3. To Coordinate Service Plans and Avoid Duplication of Services - Increase Efficiency

Example: Sometimes various agencies provide similar or overlapping services. These program plans sometimes make conflicting demands on the client. Sharing information avoids wasteful duplication and resolves the conflicts. It also frees up resources and provides more comprehensive client care. Another example is the numerous youth assessments in the juvenile justice system. If assessment information is shared by Agency A, then Agency B might focus on the gaps.

#### 4. To Make Services More Family Focused

Example: A problem that a parent or sibling is having may be directly relevant to issues in the life of the youth a team is serving. Yet, one agency may be serving the parent, while the agency serving the youth is wholly unaware of the problem. Information sharing makes services more family-focused. It enlarges the perspective of service needs. It may be more helpful to view the youth's delinquent behavior in the context of family stressors such as unemployment, inadequate housing, substance abuse, and emotional instability. Sharing of information among

agencies allows service providers to gain a broader perspective and provide the family with appropriate services.

#### **5. To Enforce Orders of the Court**

Example: The court may order a youth to seek a particular service or to perform an activity such as community service. The court will need information from the agency to ascertain whether the youth complied with the directive.

#### **6. To Promote Public Safety**

Example: Information sharing may promote public safety by ensuring that individuals applying for licenses to operate treatment facilities have not been subjects of confirmed fraud or child abuse.

#### **7. Public Policy Considerations**

Example: Information about the type of substances used, the frequency and user population may be very relevant in public policy areas. It may impact where law enforcement is putting its resources, the laws enacted and the types of community treatment needed.

#### **8. To Identify Overlapping Populations and Restructure Delivery of Services**

Example: The understanding of areas of shared responsibility may be an important motivation and foundation for collaborative action. Information sharing can strengthen relationships and foster the evolution of a well-integrated system.

#### **9. To Serve the Needs of the Broader Community**

Example: Information sharing helps agencies serve the needs of the broader community. Statistical analyses may be invaluable in determining the effectiveness of programs in

place, current community needs that are unmet, projections of the need for services in the future and the best ways to allocate limited resources.

#### **10. To Enhance Cross-System Accountability**

Example: It may be important to understand whether referrals lead to services or whether services lead to expected outcomes. It also is helpful to determine the short or long-term effectiveness of a treatment program.

It is important to respect the need for privacy. This right, however, must be balanced with the need of agencies to know about the youth and families they serve in order to provide effective services. Sometimes judges are called upon to participate in this balancing act. However, most of the time families are left to fend for themselves against the agencies. In other instances, the agencies give and get the information they want without the appropriate consent. Before deciding to share information across agencies or systems, communities and agencies should be sure that information sharing will help provide effective services and will not violate the rights to privacy of youth and families. If the information sharing does not benefit both the agency that provide services and the youth and families served, then it is probably not appropriate.

Confidentiality does serve a purpose in protecting a client, but sharing information also facilitates agencies' work in helping the same client. As the following sections discuss, the issues and approaches sometimes vary. It can depend on whether the need is for individual or aggregate information sharing and who is seeking what type of information. Different stakeholders may hold conflicting views on what information is in fact relevant

to the improvement or delivery of services to a young client. It is important to recognize and deal with uniformity of information collected, including the definitions, assessment tools, etc. The implications of not developing a common language around these issues will result in conflicts in and among agencies.

The premise of this primer is that the protection of personal privacy and the improvement of services through information sharing are not mutually exclusive goals.

## Keeping It Real # 2

**Martha, 13, is adjudicated delinquent for breaking into her neighbor's home. This is her first offense, so the court sentences her to participate in a network and shares the information about her arrest and probation status with the school. Could Martha or her parents have stopped this action? Can the school freely receive and use this information?**

Answer pg. 35

## chapter five

### Laws and Regulations that Govern Information Sharing

All agencies, individuals, lawyers and counselors that collect data on juveniles must follow federal, state, and local statutes, ordinances, resolutions, regulations, accreditation and licensing requirements, court orders and legal opinions.<sup>9</sup> These laws, policies and procedures address the collection, maintenance, use and release of information.

Before attempting to create a procedure, it is imperative that all parties to the partnership reveal impediments to sharing information. For example, potential parties should identify laws that they think might hinder their ability to share information with agencies. In many cases, both federal and state legal barriers will limit the sharing of certain types of information without consent or court order. In some instances, professional privilege such as the attorney client doctrine will limit or prevent disclosure of information given to the client's attorney in confidence. The privilege holder in this instance is the client. It must be stressed, however, that confidentiality provisions in federal and state laws and regulations are not absolute. **All** contain exceptions to their coverage or specify methods for disclosure such as written releases that will be discussed later. These laws may seem excessively vague or complicated, but should be sorted through to find appropriate ways to share important information. It bears repeating that **all** contain exceptions to their coverage or specify methods for disclosure. At the end of this primer is a matrix that outlines several state laws and regulations governing confidentiality.

#### FEDERAL STATUTES AND REGULATIONS GOVERNING CONFIDENTIALITY OF DRUG AND ALCOHOL RECORDS AND COMMUNICATIONS

Since Reclaiming Futures deals with substance abusing youth who are in the juvenile justice system, this seems like a logical place to start. The federal government enacted two laws in the early 1970's to guarantee the strict confidentiality of information about persons receiving alcohol and drug prevention and treatment services. Congress amended these statutes in 1986 to provide consistency with state laws mandating the reporting of child abuse and neglect. In 1992, Congress consolidated the separate statutes governing alcohol and drug abuse into a single federal confidentiality law covering both alcohol and drug abuse records and information. The legal citation for this law is 42 U.S.C. (United States Code) Section 290dd-2.<sup>10</sup> Regulations implementing these confidentiality statutes were first issued in 1975 and revised in 1987. These remain in effect today. The legal citation for the interpreting regulations is 42 C.F.R. (Code of Federal Regulations) Part 2.<sup>11</sup> The federal confidentiality rules have existed for more than 25 years. The delivery of alcohol and drug services, however, has changed profoundly. Drug and alcohol services are now being provided not only in specialized treatment and prevention programs, but also by an array of public and private systems, including managed care, public health and mental health, welfare and child welfare systems, workplace and school-based programs, and in two of the most rapidly evolving developments, drug courts in juvenile, adult and family court systems and

juvenile integrated substance abuse treatment networks.

Although the terrain has changed, the federal confidentiality rules continue to set practical, easily applied and nationally recognized standards for handling information about alcohol and drug clients. These rules are as applicable and necessary today as they were 25 years ago. Accordingly, the rules require an individual's specific, written consent to authorize most disclosures of alcohol or drug patient-identifying information. Some clearly identifiable, though narrowly limited, circumstances in which information may be disclosed without an individual patient's consent include child abuse, medical emergencies, court orders or subpoenas.<sup>12</sup> At times even when there's a court order or subpoena a lawyer or other professional might have legitimate cause to resist compliance. For example, there might be disagreement on the interpretation of a particular provision and the requirement to disclose or constitutional considerations such as the right against self-incrimination.

Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated or directly or indirectly assisted by any department or agency of the United States shall be confidential and be disclosed only for the purposes expressly authorized below:

- The content of any record referred to above may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances and for the purposes allowed under this regulation.

- With or without consent, the content of such record may be disclosed to medical personnel to the extent necessary to meet a bona fide medical emergency.
- To qualified personnel for the purpose of conducting scientific research as long as names are not used.
- If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefore and the court in determining the extent, to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

Unconditional compliance with these restrictions is required. The restrictions on disclosure and use in these regulations apply whether the holder of the information believes that the person seeking the information already has it, has other means of obtaining it, is a law enforcement or other official, has obtained a subpoena, or asserts any other justification for a disclosure which is not permitted by these regulations. The presence of an identified patient in a facility or component of a facility, which is publicly identified as a place where only alcohol or drug abuse diagnosis, treatment, or referral is provided, may be acknowledged only if the patient's written consent is obtained. The regulations permit acknowledgement of the presence of an identified patient in a facility if the facility is not publicly identified as only an alcohol or drug abuse facility. The regulations do not restrict a disclosure that an identified individual is not and never has been a patient.

If a person consents to a disclosure of his or her records, a program may disclose those

records in accordance with that consent to any individual or organization named in the consent. A program may disclose information about a patient to those persons within the criminal justice system which have made participation in the program a condition of the disposition of any criminal proceedings against the patient or of the patient's parole or other release from custody if:

1. The disclosure is made only to those individuals within the criminal justice system who have a need for the information in connection with their duty to monitor the patient's progress; and
2. The patient has signed a written consent and the consent must state the period during which it remains in effect and that time period must be reasonable.

Court orders under CFR 42 may authorize disclosure of confidential communications made by a patient to a program in the course of diagnosis, treatment, or referral for treatment only if:

1. The disclosure is necessary to protect against an existing threat to life or serious bodily injury, including circumstances which constitute suspected child abuse and neglect and verbal threats against third parties;
2. The disclosure is necessary in connection with investigation or prosecution of an extremely serious crime, such as one which directly threatens loss of life or serious bodily injury, including homicide, rape, kidnapping, armed robbery, assault with a deadly weapon, or child abuse and neglect; or
3. The disclosure is in connection with litigation or an administrative proceeding in which the patient offers testimony or other evidence pertaining to the content of the confidential communication.

An order of a court of competent jurisdiction entered pursuant to these regulations is a unique kind of court order. The order alone does not compel disclosure. A subpoena or a similar legal mandate must be issued in order to compel disclosure. This mandate may be entered at the same time as and accompany an authorizing court order entered under the regulations.

### Keeping It Real # 3

**A treatment provider holding records subject to 42 CFR receives a subpoena for those records. Must the treatment provider turn over the record?**

Answer pg. 35

### Keeping It Real # 4

**An authorizing court order is made ordering disclosure of certain records subject to 42 CFR, but the person holding the record does not want to make the disclosure. Must they disclose?**

Answer pg. 35

Federal Regulations and Minor Patients Title 42 Chapter I, Part 2 defines a minor as a person who has not attained the age of majority specified in the applicable state law, or if no age of majority is specified in the state law, the age of eighteen years. If a minor patient acting alone has the legal capacity under the applicable state law to apply for and obtain alcohol or drug abuse

treatment, any written consent for disclosure may be given only by the minor patient. This restriction includes, but is not limited to, any disclosure of patient identifying information to the parent or guardian of a minor patient for the purpose of obtaining financial reimbursement. The regulations do not prohibit a program from refusing to provide treatment until the minor patient consents to the disclosure necessary to obtain reimbursement, but refusal to provide treatment may be prohibited under a state or local law requiring the program to furnish the service irrespective of ability to pay.

Where state law requires consent of a parent, guardian or other person for a minor to obtain alcohol or drug abuse treatment, any written consent for disclosure authorized under the regulations must be given by both the minor and his or her parent, guardian, or other person authorized under state law to act in the minor's behalf. Where state law requires parental consent to treatment, the fact of a minor's application for treatment may be communicated to the parent, guardian, or other person authorized under state law to act in the minor's behalf only if:

1. The minor has given written consent to the disclosure in accordance with the regulations;
2. The minor lacks capacity to make a rational choice regarding such consent as judged by the program director or the minor applicant because of extreme youth or mental or physical condition cannot make a rational decision on whether to consent to a disclosure to his or her parent, guardian, or other person authorized under state law to act in the minor's behalf.

3. The applicant's situation poses a substantial threat to the life or physical well being of the applicant or any other individual which may be reduced by communicating relevant facts to the minor's parent, guardian, or other person authorized under state law to act in the minor's behalf.

Another extensive piece of federal legislation governing confidentiality is Public Law 104-191, The Health Insurance Portability Act: HIPAA. Title 1, 45 CFR Sections 160 through 164. This legislation requires Congress to, improve the efficiency and effectiveness of the healthcare system by encouraging the establishment of standards and requirements for the electronic transfer of certain health care information. This means that healthcare organizations that transfer records and information electronically must follow certain standards for ensuring the records remain secure and confidential. These proposed security standards were published in the Federal Register on August 12, 1998. HIPAA requires that all health plans, health care providers, and health care clearing houses that maintain or transmit health information electronically establish and maintain appropriate administrative, technical, and physical safeguards to ensure confidentiality, integrity of data, authentication, non-repudiation and authorization for authenticated users.<sup>13</sup>

Healthcare organizations affected by HIPAA include The Departments of Health and Human Services, health care financing institutions, state Medicaid agencies, health plans/health insurers, healthcare providers; hospitals, clinics, physician practices, healthcare clearinghouses, and healthcare

web site designers and hosts. All of the aforementioned must comply with the highly complex final privacy regulations, which went into effect April 14, 2001. Small health care plans have until April 14, 2004 to comply with requirements. All other entities must be in compliance with the final rule by April 14, 2003.

The privacy rule provisions of HIPAA<sup>14</sup> give individuals access to and control over their private health information. Examples of the rights created by the privacy regulations and measures that must be implemented by the above covered entities are described below:

- Health plans; providers, and clearinghouses must provide a written notice to all individuals describing how health information about the individual may be used and how the individual can gain access to the information.
- In general, prior to treating an individual, health care providers will have to obtain a written consent from the individual agreeing to use of health information for treatment, payment or health care operations. The consent must be retained for six years from the date it was last in effect and the individual may revoke it or request restrictions on uses or disclosure of health information.
- In order to use or disclose protected health information for any purpose, health plans, providers and clearinghouses will have to obtain an authorization from the individual allowing the use or disclosure.
- Covered entities must undertake reasonable efforts to limit the amount of health information disseminated to that minimally necessary to accomplish the purpose of the dissemination.
- Disclosure of protected health information to business associates may be made only once the covered entity has received satisfactory assurance through a written contract that the information will be protected.
- Covered entities must appoint a privacy official who will be responsible for the development and implementation of privacy policies and procedures.
- A contact person must also be appointed who will be responsible for receiving complaints and responding to inquiries.
- The final privacy rule mandates privacy training of all members of a covered entities workforce.
- Covered entities must have in place appropriate administrative, technical and physical safeguards to protect health information.

In addition to the privacy standards, covered entities must be in compliance with the HIPAA final transaction and code sets standards regulations for electronic transactions.<sup>15</sup> This regulation mandates the use of a single national standard, the ANSI X12 standard, which governs both the format and the content of information sent electronically between two organizations. The most common transaction envisioned under this regulation is the claim. However, the regulation also standardizes encounter information and coordination of benefits, so keep these facts in mind when setting up a Management Information System.

Prior to the enactment and publication of the final rule, substance abuse and mental health procedure codes were largely, but not exclusively, developed locally and reflected the uniqueness of local health care delivery. With the implementation of the HIPAA standards for electronic transactions, all

covered entities are obligated to integrate the new uniform codes into their information technology systems. Local communities will need to collaborate to determine how to achieve this fundamental system change in such a way as to avoid or minimize the loss of important utilization data such as volume of services and outcomes. Single state agencies should consider adopting the national procedure codes in order to avoid requiring providers to maintain parallel and duplicative systems for reporting health care information.

#### **FEDERAL AND STATE CONSTITUTIONAL PROVISIONS**

The U.S. Constitution does not specifically contain a right to privacy. However, the U.S. Supreme Court has recognized the importance of protecting privacy in a number of contexts, including the use of contraceptives,<sup>16</sup> and the decision whether to terminate a pregnancy.<sup>17</sup>

Some states constitutions do include an explicit right to privacy. For example, in 1972, the people of California amended the state constitution by ballot initiative to add “privacy” to the rights listed in Article I, Section 1.<sup>18</sup>

Such constitutional provisions generally do not directly affect interagency exchange of confidential information. Rather, they provide a legal background for specific federal and state statutes and regulations that govern disclosure of agency records.<sup>19</sup>

#### **FEDERAL STATUTES AND REGULATIONS**

The federal government provides funding for some social, education, health, drug and alcohol, and mental health services for children and families through a variety of statutory programs. These statutes generally include confidentiality provisions, in the text

of the statute itself, in the implementing regulations or both. They may be quite extensive, like the education regulations, Family Educational Rights and Privacy Act (FERPA). Another example is the provisions covering alcohol and substance abuse treatment mentioned above in the section discussing 42 CFR, Part Two that define federal policy in great detail and largely control policy and practice in the states. They may also be very brief, like the juvenile justice provisions, which defer to the states in setting restrictions on disclosure of juvenile court records.

#### **STATE STATUTES**

In addition to federal statutes that may impact the establishment and maintenance of interagency information sharing networks, state statutes also must be considered. State confidentiality statutes vary considerably. Some provisions apply to all state agencies, while others comprise detailed restrictions for specific types of records or particular agencies.<sup>20</sup>

Some states treat juvenile records as public information (see for example, Washington Revised Code 12.50.050; 13.50.010). Other states and most tribes permit access to court records only by the juvenile and agencies directly involved in the juvenile justice system. Most states use a method of conditional disclosure of juvenile court records. A judge issues a court order that permits access to agencies that are not part of the juvenile justice system (see for example, Pennsylvania Revised Code 6307; 6308).<sup>21</sup>

Most states do not address procedures for verbal exchanges of information and recognize the right of service providers to

share confidential information verbally.<sup>22</sup> In the past several years, many state legislatures have reconsidered their laws concerning juvenile records, making them more flexible in order to allow agencies to comprehensively address youth who have committed serious or violent offenses. Since 1992, 40 of the 50 state legislatures and the District of Columbia have made substantive changes to laws relating to the confidentiality of juvenile records or proceedings.<sup>23</sup>

Most states have statutes that take a comprehensive approach to protecting the confidentiality of agency information.<sup>24</sup> These laws establish extensive protections for personal information. In addition to general statutes applicable to agencies, some statutes make specific types of records confidential, including social services records,<sup>25</sup> child abuse reports,<sup>26</sup> juvenile court records with some limitations as discussed before, education records pursuant to the language of the Federal Family Educational Rights, and Privacy Act (FERPA), and health, hospital and clinic records. New York even makes library records confidential.<sup>27</sup>

#### **STATUTORY PRIVILEGES**

Most states by statute make communications privileged between certain professionals and their clients or patients. Privileged communications are provided for by statute and are generally found in the state's evidence code. The primary purpose for privileged communication is to protect it from disclosure as evidence in a court of law. State codes contain basic privileges between doctors and patients, psychotherapists (or other mental health professionals), drug and alcohol professionals and clients, attorneys and clients, husbands and wives, clergy and

those seeking their counsel. In addition, some states have privileges for communications between social workers and clients, victims of violent crimes and victim counselors, and communications with mediators and dispute resolution programs.<sup>28</sup> The client holds the privilege and the professional is the fiduciary who is responsible for protecting the information. Unless an exception exists, in most instances absent consent, the communication must be kept private.

Even if a client is a minor, the professional treating the minor is generally subject to the privilege and must keep communications private.<sup>29</sup> The common exceptions to these statutes are child abuse reporting laws, which override the privilege.

The structure and organization of the juvenile justice system in the states vary. Accordingly, the role of the judiciary in aftercare and the implications for information sharing with the courts differs from state to state. Since more and more interest is being expressed in “re-entry courts” for juveniles, it is important that the jurisdictional issues be considered when developing information sharing and confidentiality policies for the interagency team.

#### **ETHICAL STANDARDS**

Finally, agency personnel and individuals also may need to comply with ethical standards established by professional organizations. Most professions, medicine, law, psychology, education, and social work, have established codes of ethics. These ethics are often similar to statutory privileges. They generally require that information obtained from clients be kept confidential.<sup>30</sup>

Once the team decides that it wants to share specific information in order to serve

youth and families more effectively a series of questions should be raised immediately to determine common information and how the information should be shared. These questions will help analyze any confidentiality provisions that might be in place.<sup>31</sup>

- What information do you need? For what purpose?
- What information is deemed confidential?
- What information is not considered confidential?
- What exceptions are there to the confidentiality restriction?
- What information sharing should be authorized? For what use? Under what conditions?
- What are the requirements for re-release?
- Can information be shared with the consent of the youth or parent?
- Can information be shared without the consent of the youth or parent?
- What are the requirements for consent release?
- Who can give consent for information pertaining to minors?
- Does the provision authorize other mechanisms for information sharing, such as interagency agreements or memoranda of understanding?

These questions are fundamental. After determining the applicable laws that govern the situation, it is important to assess implementation policies and practices to see if they hinder the ability of the agencies to share information with one another. In many instances, policy and practice, not laws, stop the sharing of information. In either case, there may be instances in which both law

and policy need to be changed to increase access to information.

### Keeping It Real #5

**Mr. Amos, John's probation officer, calls the school counselor to find out whether John is attending school, in compliance with the terms of his probation. The school has no information that John is on probation. Is Mr. Amos' conduct proper?**

Answer pg. 35

## chapter six

### Protocols for Information Sharing in a Collaborative Setting

#### DEVELOPING AN APPROACH

Staff in most people-serving systems are quite cautious about the complex matters of confidentiality. Because of this, the process for reaching agreement on sharing information is as important as the resulting agreement. There is a split of opinion on the point to begin working on confidentiality and information sharing agreements. One source indicates that “Before any interagency information-sharing process can begin operating, it is imperative that all parties to the partnership start hammering out these problems right off the bat.”<sup>32</sup>

Another perspective is that confidentiality and information sharing should not be among the first tasks in developing collaborative efforts. The subject is complex and a mutually agreed upon approach for information sharing is likely to involve compromise, so it is important to have working relationships and commitment to joint efforts already firmly in place. The stronger the personal relationships among participants, the more easily confidentiality issues can be addressed.<sup>33</sup> In either event, a base of trust must be formed. This is an area where trust counts for everything. The following 20 steps may assist in setting up a process to deal with these issues.

#### 20 STEPS TO SUCCESSFUL INFORMATION SHARING

Etten and Petrone<sup>34</sup> developed a 20 step prescription to successful information sharing. A slightly modified version of their plan is outlined below.

1. Appoint an Information Management Committee comprised of representatives possibly from every participating agency in the collaborative including youth and parents.
2. Determine what information is currently collected and maintained by all of the representative agencies.
3. Evaluate information needs.
4. Evaluate agency goals and identify those that are overlapping.
5. Determine the mission (overall goals) of the integrated network system of care.
6. Clarify reasons to share information.
7. Identify what specific information is to be shared and who needs access to each item of information.
8. Determine statutory record requirements about information collection and dissemination mandated by federal, state and local governments.
9. Determine exceptions to statutory requirements.
10. Draft an interagency agreement.
11. Fund the system.
12. Designate the information management liaisons in each agency.
13. Build the system.
14. Prepare and/or revise current policies and procedures.
15. Train staff.
16. Supervise confidentiality needs.
17. Review policies regularly.
18. Review needs regularly.
19. Revise system as necessary based on audits and system needs.
20. Repeat steps 14 through 19.

A successful information-sharing program can be formulated by specifically charging a

motivated and interested group of professionals with the task of developing policies and procedures for the exchange of information and focusing on the majority of the 20 points. A judge may help the team balance interests by selecting a case or two to test the information-sharing program.

#### **STAFF PREPARATION AND TRAINING**

Once the groundwork is completed and it is clear that a process for interagency information needs to be developed, choices must be made about the process participants. In making these choices, a balance must be struck between involving potential stakeholders and the most significant contributors. This will keep the group from becoming unmanageable. Basic agreement on the reasons for information sharing offers valuable protection. Articulate why sharing is needed to keep the conversation focused and limited. A responsible framework needs to be set to identify specific information elements to be shared and who needs to have information for a specific purpose.

For example, a case manager may need to know who is working with a particular youth or family so that services can be coordinated. That does not mean that he or she needs to know every detail of the other agency's intervention. Moreover, the caseworker may feel more comfortable engaging in a focused conversation than in making all of his or her records about a case available to unknown persons at unspecified agencies. A system that makes available the names of other agencies and workers who provide services to the family may be both sufficient and acceptable, after which the workers may use professional judgment in providing other information.

It is important that potential partners identify any laws that they believe will impede their ability to share information with other agencies. These laws should be put on the table and if possible explained by an attorney who has been designated to provide advice. The best approach is to frame specific questions and recognize that an attorney's job is to protect and cautiously advise the client.

As with any procedure that is important and complex, any staff member who shares information as part of a collaborative endeavor should receive training. The training should address:

1. The specific rules that govern collaborating parties and the provisions that have been established for sharing information.
2. It should include specifics about the information needed by the legal staff, treatment providers, probation officers, judges, social/human service agencies, mental health, education, community based organizations, pro-social agencies, parents, and all of those who will make up the system of care for these youth.
3. The reasons why the party needs the information.
4. The type of information the party's agency will share with other agencies.
5. The purposes of sharing the information with other agencies. An explanation of the legal provisions governing the agency with regard to confidentiality.
6. The importance of explaining to youth and families why consent is essential.
7. The need for sensitivity to language and cultural issues.
8. The requirements of informed consent and the necessary elements for written releases.

9. The role of interagency agreements, court orders and other mechanisms that facilitate information sharing.
10. Special issues that arise from the use of MIS systems.

In addition to training, staff will need written materials explaining the policies and procedures. Materials written in plain English and other languages as deemed necessary for parents and youth should explain (a) what the limits are, (b) why they are there and acceptable, and (c) the agreed-upon procedures for sharing information. The most effective guidance will seek to address the specific situation that the worker is likely to face. There should also be an established process to resolve unclear situations. Without this, staff that is uncertain may be afraid to provide information at all. It also may simply base the decision on whether staff members trust the person asking for information. One recommendation came from an interagency study of confidentiality in Oregon. It recommended designating a confidentiality resource person in each department to respond to questions about releasing information.<sup>35</sup>

Some collaborating organizations are reinforcing staff awareness on confidential information responsibly by regularly putting the subject on staff meeting agendas. Another approach is having staff sign pledges or oaths. Such pledges provide both a basic foundation for information sharing and a routine reminder. Members of the team sign pledges when they first join the team and reaffirm those pledges in shorter form at the start of every case conference. It is important that these pledges and oaths are consistent

with other professional standards. See the appendix for sample oaths.

#### **FACILITATING APPROPRIATE INFORMATION-SHARING**

Certain kinds of information may be shared freely with other agencies. They are not considered confidential under federal and state law. One example is survey information that does not identify particular individuals. Federal regulations provide that an educational agency or institution may disclose directory information if it has given public notice to parents of students and eligible students (those 18 or older) of (a) the types of information designated as directory information, (b) the parent's or eligible student's right to prohibit disclosure of the information, and (c) the time period for so notifying the educational agency or institution. Directory information pertaining to former students may be disclosed without giving notice.

The most common method of information sharing among agencies is informal exchange, usually verbal – often over the telephone. This method is generally used for very limited types of information exchanges, such as confirming that a particular agency is working with a certain family or checking whether a particular child is attending school satisfactorily. Individuals in different agencies who have known each other for some period of time and who have established a relationship of trust often use verbal exchange.

Be aware that informal information sharing may not comply with statutory requirements since it is often done without consent or other statutory authorization. Nevertheless it is extremely common. Many people acknowledge the practice as routine

within their agencies. They feel that the benefits of rapid confirmation of limited but needed information, for the client's interest, outweighed the burdens of obtaining consents or using other formal mechanisms. Beware of this trap. However informal a verbal exchange might be, it poses problems. Verbal conversations by their nature are temporary, there is no written document, and no record. Of course, agency workers may make notes of their conversations, thus creating documents, or may pass on confidential information to others within or outside their agencies. Keep in mind, the fact that because a practice is common does not make it legal.

The proper mechanism for exchanging information for juveniles on probation and parole is by informed consent. Consent is generally demonstrated by a written release signed by the individual who is the subject of the information (or in certain situations involving minors by the parent or guardian). Releases are not only to comply technically with statutory requirements, but also to support the underlying purposes of agency involvement. Requesting consent forms from youth and their parents demonstrates respect for their privacy. The agency refusal to release information without consent gives a parent or youth some degree of control over agency interventions in their lives. Youth and families may be more inclined to sign a release of confidential information if they understand the beneficial purpose of the disclosure.

## Keeping It Real #6

**Stephen's probation officer has explained the purpose and benefits of information sharing to his parents. They adamantly refuse to sign the consent form for fear that Stephen will be expelled from his current school once it learns of his delinquent behavior. This information is needed for the probation officer to monitor the school progress of Stephen. What recourse does the probation officer have?**

Answer pg. 35

Sometimes a law may specify what must happen in the release process, e.g., who must sign, what the document must say and what is the scope of permissible release. But often the law simply says that certain information may not be released without consent, and the agency will have developed its own procedures. The general requirements should be written and contain:

- The name of the person who is the subject of the information.
- The name of the person, program, or agency sharing the information.
- The name of the person, program, or agency with which the information will be shared.
- The reasons for sharing the information.
- The kind of information that will be shared.
- The signature of the person who is the subject of the information.
- The date the release was signed.

- A statement that the subject of the information can revoke the release at any time.
- An expiration date for the release or a specific event (such as the end of the school year) that will terminate the release.
- A notice stating that the subject of the information has a right to receive a copy of the release.

Notices to clients of an agency's need to release information are critical to the process of obtaining informed consent. The youth and families, who are the subject of these consent forms (a) must understand the purpose and the extent of the consent being requested and (b) be given the opportunity to review and acknowledge the release of any memorandum of understanding entered into by the parties who have partnered to create an integrated system of care. Inadequate and confusing notices may mislead them and impair the relationships between youth, families and the service providers.

There may be inconsistency among different organizations' policies and forms, and forms that are entirely adequate for one organization's internal purposes may be unacceptable to another. Therefore, developing an information-sharing approach grounded in "informed consent" that can be systematically and efficiently used by all collaborating organizations will mean that conflicting missions and priorities must be acknowledged and the challenges overcome in order to ensure essential protections for youth and their families.

#### **COMMON CONSENT FORMS, INTERAGENCY AGREEMENTS AND MEMORANDUMS OF UNDERSTANDING**

There are a number of ways that consent to release information might be obtained. Every agency may develop and use its own release form. Agencies and individuals might work together to develop a common release form. These approaches might be combined, with some agencies agreeing to use the common form, while others continue using a form specific to their needs. Obviously, a single form is less burdensome than multiple forms for the family seeking services.

For the staff a single form can remove any question about whether a form used by one agency to obtain release is acceptable to the agency seeking the information. Many collaboratives have had success in developing common release forms. Examples are contained in the appendix.

While different laws may have different requirements, experience indicates that it is possible to find agreed-upon language on content. Iowa, California, and a few other states and counties have developed release forms that satisfy the confidentiality mandates of the participating agencies. By signing one release form, the client permits the participating agencies to exchange information and coordinate services for the client.

Under several federal and state statutes and county regulations, agencies may enter into agreements to share information about clients to better achieve service goals. Statutes in several states contain similar authorizations that allow agencies to share information without obtaining written

releases from individual clients.<sup>36</sup> These agreements formalize organization-to-organization connections. Interagency agreements should specify:

- What information will be shared.
- How the information will be shared.
- Who will have access to the information.
- The purposes for the information sharing.
- Assurances by the participating agencies that they will not disclose the information further, except as directed by the agreement, and that they will resist other efforts to obtain the information.
- Other requirements that may be mandated by applicable confidentiality provisions.

### Keeping It Real #7

**Jane, who is on probation and participating in a court community treatment network, has been in treatment for several weeks now. This past week she gave a urine sample that turned out to be dirty. She confessed to her treatment counselor that she had relapsed and used methamphetamine and alcohol the night before. Can the treatment provider share this information with the team?**

Answer pg. 35

### UTILIZING AUTOMATED INFORMATION SYSTEMS FOR INFORMATION SHARING

Automated systems offer a powerful tool for matching data and exchanging information. The greatest strength of the computer also is its greatest danger. All of the information in all of the files is potentially available to anyone with a computer terminal. Persons with access may not have consent. Security of

records must be of primary concern when automated systems contain information about youth and families requiring consent.

Another risk derives from the ease with which data can be manipulated on computers. Easy access does not mean the information should be obtained. When data manipulation was done manually, the extensive labor involved usually led people to stop and think twice before accessing the information. Because that workload is eliminated through the use of computers, one caution about information has been removed.<sup>37</sup> The reality is that most agency records will eventually be stored in computers. When one agency's records become linked on a computer network with another agency's records, safeguards such as firewalls and other security measures must be put in place to ensure that confidential information will not be disclosed improperly.<sup>38</sup>

In developing an effective computerized data system, agencies should limit access to information in the computer and on input and output. Communities also can balance the advantages and risks of automated system. Below is a checklist that every member of the integrated system of care team should go through to help reduce the risks.

- Determine the purpose of the system up front.
- Obtain the cooperation of all participating parties.
- Develop thorough security procedures.
- Train staff carefully.
- Provide notice to youth and families that their information will be housed on a computer and shared among the team.
- Limit access to what is in the system.

- Limit the data that are in a system.
- Limit the data that can be retrieved from the system.
- Determine who has read-only versus read, edit and add capability.

Any shared system must be structured so that access is limited. This should be based on the extent to which consent has been provided or authorization is limited. Where consent or authorization is lacking, staff should not be able to obtain access to protected information. Furthermore, security risks are reduced if protected data simply are entered into the shared system in the first place.

It is possible to limit the data in the system for a particular agency in such a way that the person accessing will know whom to contact for more specific information. This would be subject to the holder's professional judgment and the extent of the release granted.

Finally, it is possible to construct the system so that personally identifiable information cannot be retrieved, even though it is present in the system so that data matches can be made. This is particularly useful for evaluation purposes or when data are sought at an aggregated level.

### Keeping It Real #8

**Joey and his parents have signed consent to release information to a residential treatment provider that is a member of the Hoboken County collaborative. The collaborative has several other service organizations that are providing services to Joey and his family. Agency B knowing that the treatment provider is treating Joey calls the treatment provider in a panic because he cannot reach Joey and his parents. The agency needs to know the parent's income to verify eligibility for services. May the treatment provider disclose?**

Answer pg. 36

# chapter seven

## **Conclusion**

Information sharing can present a way to further partnerships between agencies that are currently engaged with each other to serve the same juveniles, their siblings or their families. Information sharing can also make it possible to coordinate juvenile justice services that foster more informed, appropriate decisions regarding juveniles. For example, information sharing might provide a teacher who believes a student is at risk of gang or drug activity with a method of notifying the appropriate service providers. These providers might intervene before the student engages in such activities. Sharing information will allow providers to more efficiently determine the level and type of services by avoiding redundancy in service and conflict in treatment approach.

Additionally, sharing information can facilitate services and treatment, improve decision-making and feedback concerning youth, and ensure that youth do not fall through the cracks. In an integrated juvenile justice treatment network, team members which include legal staff, treatment providers, probation officers, judges, social/human service agencies, mental health, education, community based organizations, pro-social agencies, parents, faith based organizations and all of those who will make up the system of care for these youth would meet the needs of adjudicated youths and their families by providing the appropriate services based upon shared information.

## Endnotes

- <sup>1</sup> *Cochran's Law Lexicon* (5<sup>TH</sup> edition 1974)
- <sup>2</sup> Joining Forces, American Public Welfare Association, Center for law and Social Policy, Council of Chief State School Officers and Education Commission of the States, *Confidentiality and Collaboration: Information Sharing in Interagency Efforts: A Joint Publication*. (January 1992).
- <sup>3</sup> Soler, Mark & Clark, M. Peters, *Who Should Know What? Confidentiality and Information Sharing in Service Integration*, National Center for Service Integration Resource Brief. (1993).
- <sup>4</sup> Soler, Mark, Shotton, Alice & Bell, James R. *Glass Walls: Confidentiality Provisions and Interagency Collaborations*, Youth Law Center. (March 1993)
- <sup>5</sup> *Ibid* at 5-6
- <sup>6</sup> *Olmstead v. United States*, 277 US 438, 478, 48 S.Ct. 564, 72 L. Ed. 944 (1928) (Brandeis, J., dissenting).
- <sup>7</sup> *Doe v. Miller*, 573 F.Supp. 461 (D.Ill. 1983) Alien parents of citizen children were entitled to preliminary injunction against implementation policies of Illinois Department of Public Aid which they claimed unlawfully forced them to either withdraw food stamp application on behalf of their children or disclose information about their alien status under the threat of being reported to the INS as "illegal aliens"). In view of these circumstances, it may be appropriate to specifically state in a written release that personal information will not be provided to the INS.
- <sup>8</sup> English, A. & Tereszkievicz, L., *School-based health clinics: Legal Issues 33-34*. San Francisco: National Center for Youth Law and Center for Population Options. (1988).
- <sup>9</sup> Etten, T.J., and Petrone, R.F. 1994. *Sharing Data and Information in Juvenile Justice: Legal, Ethical and Practical Considerations*. *Juvenile and Family Court Journal* 45 (3): 65-90.
- <sup>10</sup> Legal Action Center of the City of New York, Inc., *Confidentiality and Communication: A Guide to the Federal Drug and Alcohol Confidentiality Law*. (2000).
- <sup>11</sup> *Ibid* page 3
- <sup>12</sup> *Ibid* page 4
- <sup>13</sup> Federal Register, Vol. 3. No. 155.
- <sup>14</sup> 65 Federal Register 82642, December 28, 2000.
- <sup>15</sup> 65 Federal Regulation 50312.
- <sup>16</sup> *Griswold v. Connecticut*, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed. 2d 510 (1965), The U.S. Supreme Court held that a constitutional right of privacy could be inferred from several specific guarantees in the bill of Rights, such as the "freedom to associate and privacy in one's associations" included in the First amendment, the protection against unreasonable searches and seizures in the Fourth amendment, and the protection against self-incrimination embodied by the Fifth Amendment.
- <sup>17</sup> *Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973); *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 112 S. Ct. 2791, 120 L. Ed. 2d 674 (1992).

- <sup>18</sup> Cal. Const. Article I, Section 1, (Deering 1974). The ballot argument that appeared in the state’s election brochure is the “legislative history” of the amendment: The right to privacy is the right to be left alone. It is a fundamental and compelling interest. It protects our homes, our families, our thoughts, our emotions, our expressions, our personalities, our freedom of communication and our freedom to associate with the people we choose. The impetus behind the passage of this privacy provision was the widespread concern about “government snooping and data collecting made possible by the computerization of governmental record-keeping.
- <sup>19</sup> Supra note 1 at page 12.
- <sup>20</sup> Ibid at page 12.
- <sup>21</sup> JAIBG Bulletin, March 2000, Establishing and Maintaining Interagency Information Sharing, John J. Wilson, Acting Administrator.
- <sup>22</sup> Supra note 8
- <sup>23</sup> Torbet, P., Gable, R., Hurst IV, H., Montgomery, I., Szymanski, L., and Thomas, D., *State Responses to Serious and Violent Juvenile Crime*. Research Report. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. (1996).
- <sup>24</sup> California, Information Practices Act, Calif. Civ. Code Section 1798.1 to 1798.68. The Act establishes extensive protections for personal information.
- <sup>25</sup> Cal. Welf. & Inst. Code Section 10850-10852, Iowa Code Section 217.30(1), NY Soc. Serv. Law Section 136, (Public assistance records) R.C.W.A. Section 74.04.060 (medical records).
- <sup>26</sup> Cal. Penal Code Section 11167, 11167.5, 11174.3, Iowa Code Section 232.97(3), 235A.15, NY soc. Serv. Law 422(4)(A), R.C.W.A. Section 74.34.050.
- <sup>27</sup> NY Civ. Prac. L. & R. Section 4509 provides that library records “that contain names or other personally identifying details regarding the users of public, free association, school, college and university libraries and library systems of this state, including but not limited to records related to the circulation of library materials etc.... shall be confidential.
- <sup>28</sup> Supra note 1, page 13.
- <sup>29</sup> Ibid page 13
- <sup>30</sup> Supra note 8 page 10.
- <sup>31</sup> Supra note 8 at page 10.
- <sup>32</sup> Supra note 18 at page 7.
- <sup>33</sup> Supra note 7 at page 7.
- <sup>34</sup> Supra note 9
- <sup>35</sup> Oregon Departments of Education, Corrections, and Human Resources, *A Study of Confidentiality as a Barrier to Service Delivery* (April 1991), p.19.
- <sup>36</sup> Supra note 8 at page 15.
- <sup>37</sup> Supra note 7 at page 25.
- <sup>38</sup> Supra note 8 at page 17.
- <sup>39</sup> Sharing Information: A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs. Program Report. U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. June 1997. Second Printing, December 1997.
- <sup>40</sup> Supra note 1 at page 32, 33.

## Answers to “Keeping It Real”

### 1. Page 9

This is a situation in which the attorney client privilege applies. The attorney should try to persuade the youth that it is in his best interest to self disclose this information to the team. Should the youth choose not to disclose, the attorney is bound to confidentiality by the privilege.

### 2. Page 13

Whether Martha or her parents could stop the action of the court in disclosing the information depends on the state that Martha lives in. The Family Educational Rights and Privacy Act (FERPA) does not govern the decision of local juvenile justice system officials to divulge this information to the schools. Each jurisdiction has its own confidentiality rules that govern juvenile justice information. Over the years the laws have become much less stringent in light of school violence. The federal government generally leaves it up to the states to tell their courts what the rules are. Schools may receive and use information from law enforcement, courts, and other justice system components in order to provide services to Martha and to maintain a safe and effective learning environment. However, once the information on Martha is received and maintained by the school, it is subject to FERPA and its exceptions for disclosure.<sup>39</sup>

### 3. Page 17

A response to the subpoena is not permitted under the regulations unless an authorizing court order is entered. The provider must not disclose the records in response to the subpoena unless a court of competent

jurisdiction enters an authorizing order under 42 CFR.

### 4. Page 17

If there is no subpoena or other compulsory process or a subpoena for the records has expired or been quashed, that person may refuse to make the disclosure. Upon the entry of a valid subpoena or other compulsory process (called to testify) the person authorized to disclose must disclose, unless there is a valid legal defense to the process other than the confidentiality restrictions of the regulations.

### 5. Page 22

Mr. Amos’s informal disclosure of John’s probation status is unlawful absent a court order, signed consent form, or other legislation permitting the disclosure.

### 6. Page 26

The probation officer should try to explain the purpose and benefits of information sharing to the parents. It may be useful to try to determine beforehand if the parents concern is a legitimate one that deserves some consideration by the involved agencies. If the parents persist in refusal to sign, and the probation officer is under a legal duty to monitor the school progress of the youth on probation, he or she should first try to ascertain whether there is a statutory exception or provision enabling the sharing of the information, or as a last resort the probation officer may have to seek a court order. On the other hand if the information sharing is sought to provide additional or more effective services and is “discretionary” rather than “mandatory” some agencies take

the position that if the client does not sign the release, the client will not receive the services.<sup>40</sup>

**7. Page 28**

The results of the dirty drug test may be disclosed in accordance with a prior written consent of Jane, but only to the extent and under circumstances outlined in the consent form. The consent form must be in compliance with 42 CFR. Furthermore, 42 CFR Section 2.35 provides that a program may disclose information about a patient to those persons within the criminal justice system which have made participation in the program a condition of the disposition of any criminal proceedings.

**8. Page 29**

This question deals with the re-release of information. Under federal regulations governing records in a number of areas, a recipient of information from the record may use it only for the purpose for which disclosure was made and may not disclose information to any other party without prior consent of the affected individual. For example 34 the Code of Federal Regulations (CFR) Section 99.33 or CFR parts 42 & 46.

# appendices

## Resources

### PRINTED MATERIALS

- Alpert, J., & Reardon, J. (1995). *Partnerships Against Violence: Reducing Youth Violence Through Information Sharing*. National Institute of Justice Journal, 229: 19-27.
- Buslink, M., & Maltz, M. (1997). *Power to the People: Mapping and Information Sharing in the Chicago Police Department*. Monsey, NY: From Crime Mapping and Crime Prevention, D. Weisburd and T. McEwen, eds. Criminal Justice Press.
- Chapkey, S. (1996). *Rule of Law Online: Case Study of the Development of an Internet Model for Cross-National Information Sharing and Dissemination*. Washington, D.C.: From Computerization in the Management of the Criminal Justice System: Proceedings of the Workshop and Symposium on Computerization of Criminal Justice Information, U.S. Department of Justice, Office of Justice Programs.
- Cheung, O., Clements, B., & Pechman, E. (1997). *Protecting the Privacy of Student Records*. Washington, D.C.: U.S. Department of Education, National Center for Education Statistics, and National Forum on Education Statistics.
- Confidentiality and Collaboration: Information Sharing in Interagency Efforts*. (1992)  
Denver, CO., Education Commission of the States Joint Publication of Joining Forces, American Public Welfare Association, Center for Law and Social Policy, Council of Chief State School Officers, and Education Commission of the States.
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- Harris, P., Colautt, A., & Harris, D. (1994). *Designing a Juvenile Justice Information Management System: Statement of Recommendations*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs.
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- Kendall, P., & Gardner, A. (1998). *Legislation: A New Design for Justice Integration*. McGeorge Law Review 30(1): 9-35.
- Laney, R. (1996). *Information Sharing and the Family Educational Rights and Privacy Act*. Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.
- Legal Action Center (1991). *Confidentiality: A Guide to the Federal Laws and Regulations*. New York: Legal Action Center.
- Legal Action Center (1991). *Handbook: Legal Issues for School-Based Programs*. New York: Legal Action Center.

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Melaville, A., & Blank, M. (1991). *What It Takes: Structuring Interagency Partnerships to Connect Children and Families with Comprehensive Services*. Washington, D.C.: Education and Human Services Consortium.

Rosin, P., Whitehead, A., Tuchman, L., Jesien, G., Begun, A., & Irwin, L. (1996). *Partnerships in Family-Centered Care: A Guide to Collaborative Early Intervention*. Baltimore: Paul H. Brookes Publishing Co., Inc.

Simms, T. (1991). *Sharing of Criminal Investigation Information Among California Law Enforcement Agencies by the Year 2000*. Washington, D.C.: U.S. Department of Justice, National Institute of Justice.

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Slayton, J. (forthcoming). *Forming a Multi-Disciplinary Information-Sharing System*. Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

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Torbet, P., Gable, R., Hurst, H., Montgomery, I., Szymanski, L., & Thomas, D. (1996). *State Responses to Serious and Violent Juvenile Crime*. Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. U.S. Department of Justice. (1993). *Sharing Information: A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs*. Washington, D.C.

Wagner, M., Fiester, L., Reisner, E., Murphy, D., and Golan, S. (1997). *Making Information Work For You: A Guide for Collecting Good Information and Using It to Improve Comprehensive Strategies for Children, Families, and Communities*. Menlo Park, CA: SRI International.

Weiss, A. (1998). *Enhancing the Dissemination of Innovation in Community Policing: The Role of Information Sharing; Final Report*. Washington, D.C.: U.S. Department of Justice, National Institute of Justice.

## WEBSITES

Automated Index of Criminal Justice Information Systems  
<http://www.aindex.search.org/>

Criminal Justice Information Technology Institute  
[http://www.mitretek.org/business\\_areas/justice/cjiti/cjiti.html](http://www.mitretek.org/business_areas/justice/cjiti/cjiti.html)

Government Information Sharing Project  
<http://govinfo.kerr.orst.edu/>

Government Technology  
<http://www.govtech.net/>

Indiana University School of Law Library  
<http://www.law.indiana.edu>

Juvenile Accountability Incentive Block  
Grants Training & Technical Assistance  
Program – Information Sharing Technical  
Assistance Packet  
[http://www.dsgonline.com/Documents/tap\\_info\\_sharing.PDF](http://www.dsgonline.com/Documents/tap_info_sharing.PDF)

Justice Technology Information Network  
<http://www.nlectc.org>

National Center for State Courts  
Technological Information Center  
<http://www.ncsconline.org/index.html>

North Central Regional Educational  
Laboratory  
<http://www.ncrel.org/sdrs/pathwayg.htm>

Pathways  
<http://www.ncrel.org/sdrs/areas/issues/envrnmnt/css/cs300.htm>

# form 1

## Sample Consent Form

I, \_\_\_\_\_ authorize  
(Name of patient)

\_\_\_\_\_  
(Name or general designation of alcohol / drug program making disclosure)

to disclose to

\_\_\_\_\_  
(Name of person or organization to which disclosure is to be made)

the following information

\_\_\_\_\_  
(Nature and amount of information to be disclosed, as limited as possible)

The purpose of the disclosure authorized in this consent is to

\_\_\_\_\_  
(Purpose of disclosure, as specific as possible)

I understand that my alcohol and / or drug treatment records are protected under the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2, and cannot be disclosed without my written consent unless otherwise provided for in the regulations. I also understand that I may revoke this consent at any time except to the extent that action has resulted in reliance on it. In any event this consent expires automatically as follows

\_\_\_\_\_  
(Specification of the date, event, or condition upon which this consent expires)

Date \_\_\_\_\_ Signature of patient \_\_\_\_\_

\_\_\_\_\_  
Signature of parent, guardian or authorized representative when required

form 2

## Notice Prohibiting Redisclosure of Treatment Information

PROHIBITION ON REDISCLOSURE OF CONFIDENTIAL  
INFORMATION

This notice accompanies a disclosure of information concerning a client in alcohol / drug treatment, made to you with the consent of such client. This information has been disclosed to you from records protected by federal confidentiality rules (42 C.F.R. Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 C.F.R. Part 2. A general authorization for the release of medical or other information is **NOT** sufficient for this purpose. The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

form 3

## Criminal Justice System Referral Consent form

RELEASE OF CONFIDENTIAL INFORMATION:

I, \_\_\_\_\_, hereby consent to  
(Name of defendant)

communication between \_\_\_\_\_ and  
(Alcohol / drug treatment program)

\_\_\_\_\_  
(Court, probation, parole, and / or other referring agency)

The purpose of and need for the disclosure is to inform the criminal justice agency (ies) listed above of my attendance and progress in treatment. The extent of information to be disclosed is my diagnosis, information about my attendance or lack of attendance at treatment sessions, my cooperation with the treatment program, prognosis, and

I understand that this consent will remain in effect and cannot be revoked by me until there has been a formal and effective termination or revocation of my release from confinement, probation, or parole, or other proceeding under which I was mandated into treatment,  
or \_\_\_\_\_

(Specify other time when consent can be revoked and / or expires)

I also understand that the federal law and regulations governing confidentiality of alcohol and drug abuse patient records bind any disclosure made (42 U.S.C. 290dd-2; 42 C.F.R. Part 2) and that recipients of this information may disclose it again only in connection with their official duties.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of defendant / patient)

\_\_\_\_\_  
Signature of parent, guardian or authorized  
representative if required)

# form 4

## Consent to Treatment and Release of Information

### CONSENT TO TREATMENT

I, \_\_\_\_\_, hereby declare that I am the parent \_\_\_ or guardian \_\_\_ of \_\_\_\_\_, who is a child (SS# \_\_\_ - \_\_\_ - \_\_\_) applying for services provided by the Reclaiming Futures, a project of the Office of Human Resources and the Juvenile Court. I hereby give permission to those agencies or providers affiliated with Reclaiming Futures, a listing of which has been given to me, to provide services to my child. This includes consultation with agencies that may not have had direct contact with my child.

I recognize that the services for my child's condition require the collaboration of numerous agencies and service providers. I understand that this collaboration requires the disclosure of information about my child to help the various service providers make necessary assessments and service plans.

I understand that the following information may be released to service providers: The full name and other identifying information regarding my child and our family and diagnostic and assessment information including psychological and psychiatric evaluations, medical histories, educational and social histories. These evaluations may include references to other family members.

1. Treatment and / or educational rehabilitation or habilitation plans.
2. Current observations of behavior.
3. Recommendations to other providers.

The purpose of this disclosure shall be to facilitate service delivery to my child. I further understand that the information generated or obtained by the project can be shared with the agencies or providers affiliated with the project.

This authorization to release information extends to the various interagency committees and response teams of Reclaiming Futures named on page two of this form. The purpose of this disclosure is to assist in needs assessment and planning for future services. I also understand that this authorization for release of information will be in effect for the duration of services provided to my child and will expire upon termination of services. I understand that I can revoke this consent at any time and this consent shall be reviewed annually.

#### Affiliated Agencies and Providers

- \_\_\_ Department of Social Services
- \_\_\_ Division of Mental Health
- \_\_\_ Comprehensive Care Center
- \_\_\_ Court System
- \_\_\_ School Districts: \_\_\_\_\_
- \_\_\_ Health Departments
- \_\_\_ Urban County Government Children's Services
- \_\_\_ Private Therapist:
- \_\_\_ Psychiatric Hospital Unit: \_\_\_\_\_
- \_\_\_ Therapeutic Group Home: \_\_\_\_\_

I certify that I have read and understood the content of this form.

\_\_\_\_\_  
Parent or Guardian

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

Revocation Request:

I hereby revoke the authorization for release of information pursuant to the terms above.

\_\_\_\_\_  
Parent or Guardian

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

form 5

**\_\_\_\_\_ County Reclaiming Futures Project**  
**\_\_\_\_\_ Integrated Delivery System**

COUNTY INTEGRATED DELIVERY SYSTEM

Client Identification:

Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Address: \_\_\_\_\_ S.S.#: \_\_\_\_\_

Parent: \_\_\_\_\_ Phone: \_\_\_\_\_

Address (if different from client): \_\_\_\_\_

Permission for service:

Permission is hereby given to the staff of the agencies participating in the \_\_\_\_\_ County Reclaiming Futures Project, as listed below, to render services to \_\_\_\_\_

Whose relationship to me is \_\_\_\_\_ Child \_\_\_\_\_ Other: \_\_\_\_\_

Release of Information:

I, as parent / guardian of the above named child, hereby consent to the release of information by the participating agencies within the **Reclaiming Futures Project** for oral presentation only at case conference meetings. This information will not be released to other non-participating agencies / persons without the express written consent of the parent / guardian and prior written notification of the school district. I understand and have had explained to me that the sharing of information will enable the participating agencies to provide my child / family with the most efficient and effective services. This release may be withdrawn upon receipt by the school district of the written notification of revocation.

This consent form is valid for a period of time beginning \_\_\_\_\_ and ending \_\_\_\_\_

\_\_\_\_\_  
Parent / Guardian Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

I understand that the following agencies will be participating as needed in the case conference and will be exchanging oral information concerning my child / family:

- Department of Vocational Rehabilitation**
- Department for Social Services**
- Public Health Department**
- Department for Employment Services**
- Administrative Office of the Court – Juvenile Services Division Office or the Public Defender**
- District Attorney’s Office**
- Commission for Handicapped Children**

## Limited Authorization to Release Information

### LIMITED AUTHORIZATION TO RELEASE CONFIDENTIAL INFORMATION

- I. **PROGRAM PURPOSE:** (Statement must answer who, what and why)  
The Center is a service jointly funded and governed by city, county, private and school agencies for families and children served by the school. The names of participating agencies and programs are (the names of the agencies / programs must be stated to ensure the participant is properly informed). All have agreed to cooperate to better serve you and your child(ren) and to protect your confidential records. The purpose of the Center is to provide families the support they need to enable their child(ren) to achieve maximum academic, social and personal growth; and to assist families in obtaining health, education, social and community services as needed.
- II. **REASON FOR LIMITED RELEASE:** (Statement must give the purpose of the release)  
Center staff and staff from the participating agencies (hereafter called Extended Team) that work at or with the Center need to communicate with each other on your behalf. Your initials and signature on this form gives your written consent for Center staff and the Extended Team to verbally share certain information on your family circumstances. This release also gives designated Center staff permission to review and record certain information from the automated files of the participating agencies. The purpose is to better coordinate services between the Center and participating agencies that can or are providing services to you, your child(ren), or your family. It further minimizes duplicate efforts by you and the staff working on your behalf to verify certain facts about the family held by a participating agency and develops the best service plan for and with you.
- III. **PARTICIPANT AGREEMENT / AUTHORIZATION:** Initial the black line(s) to acknowledge you have read, understand, and agree with the statements.

\_\_\_\_\_ I wish to receive services from the Center for my child(ren) enrolled in the school, myself, and other members of my family for whom I am the parent or guardian.

\_\_\_\_\_ I authorize Center case management staff and Extended Team members from the participating agencies to verbally exchange the following personal information only about me and my minor child(ren) from their case files: (Identify the information to be exchanged.)

Example statement: Summary information about the agency(s) service plan for health, education and social services, and the level of achievement of the plan(s). Summary is defined as general statements only and precludes diagnosis and specific treatment information on any services given by a health care provider and any information specifically precluded by law under this simplified procedure.

\_\_\_\_\_ I authorize Center staff to access and record information from the automated files of participating agencies to verify the personal information noted below: (Identify the data elements and information to be released).

Examples of data elements: Name, birth date, sex, address, social security number, case worker number, name and phone number, and case status – open or closed with date of last action.

II. NOTICE OF RIGHTS: (State limits on release and other required assurances and notifications according to the service delivery plan)

Your records at the Center and with the participating agencies are protected under the federal, state and local regulations governing confidentiality. Written records from those files will not be released under this authorization, except as permitted or required by law. Center staff may release information on you or the child(ren) in your legal custody without your signed consent if you or the child(ren) is in imminent danger to yourself or others and in the instance of the child, elder or dependent adult abuse.

The discussions and consultations of the Center staff and Extended Team on families served at the Center are confidential and the information may not be released to anyone other than designated Center and Extended Team staff. The information will be maintained in a manner that ensures protection of your privacy and confidentiality rights.

Federal rules restrict any use of the disclosed drug or alcohol information to criminally investigate or prosecute you.

You may revoke this consent at any time. Exception: action already taken based on the consent may not be revoked.

This consent expires one year from the date you sign this form.

You are entitled to a copy of this agreement.

---

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_  
(Parent / Guardian / Authorized Minor) Mo / Day / Year

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_  
(Authorized Center Staff) Mo / Day / Year

**Citation Examples: Civil Code, 34, 56 and 1798  
Welfare and Institutions Code, 10850 and 5328  
Education Code, 49073  
42 CFR Part 2  
Health and Safety Code 1795**

## Confidentiality of Patient Information

### PATIENT INFORMATION

Federal law and regulations protect the confidentiality of alcohol and drug abuse patient records maintained by this program. Generally, the program may not say to a person outside the program that a patient attends the program, or disclose any information identifying a patient as an alcohol or drug abuser, unless

1. The patient consents in writing; OR
2. The disclosure is allowed by a court order; OR
3. The disclosure is made to medical personnel in a medical emergency or to qualified personnel for research, audit, or program evaluation; OR
4. The patient commits or threatens to commit a crime either at the program or against any person who works for the program.

Violation of the federal law and regulations by a program is a crime. Suspected violations may be reported to the United States Attorney in the district where the violation occurs.

Federal law and regulations do not protect any information about suspected child abuse or neglect from being reported under state law to appropriate state or local authorities.

(See 42 U.S.C. 290dd-2 for federal law and 42 C.F.R. Part 2 for federal regulations governing confidentiality of alcohol and drug abuse patient records.)

# form 8

## Acknowledgment, Consent and Assent by Youth

I have read and understand the information in this Consent to Share Confidential Information (or I have had it read to me in a language that I understand). I voluntarily consent and assent to the release, disclosure, and sharing of the confidential information specified in this Consent.

Printed Name of Youth \_\_\_\_\_ Date of Birth \_\_\_\_\_

Youth's Social Security Number \_\_\_\_\_ Court \_\_\_\_\_

Court Case No. \_\_\_\_\_ Youth Case I.D. No. \_\_\_\_\_

Signature of Youth \_\_\_\_\_ Date \_\_\_\_\_

Witness / Affiliation \_\_\_\_\_ / \_\_\_\_\_

### FOR PEOPLE WHO CANNOT WRITE

I understand this Consent Form and I am completing it voluntarily. I cannot write. I am placing my mark by my name to count as my signature.

My Mark \_\_\_\_\_ Name \_\_\_\_\_ Date \_\_\_\_\_

Witness / Affiliation \_\_\_\_\_ / \_\_\_\_\_

### FOR PEOPLE WHO CANNOT READ

I have read this form to \_\_\_\_\_. S/he understands it and signed it voluntarily.

Reader's Name / Affiliation \_\_\_\_\_ / \_\_\_\_\_

Reader's Signature \_\_\_\_\_ Date \_\_\_\_\_

### EXHIBIT 1

[List and explain the type of information authorized for release and exchange under section two of this consent.]

### Sample Checklist for Staff Obtaining Consent

SAMPLE CHECKLIST

- ( ) **THE (Insert Name) INTEGRATED SERVICE INFORMATION SYSTEM (ISIS)** is a computerized statewide tracking system for children at risk. “At-risk” children are children from newborn to eight years old whose parents or doctors are concerned about their growth and development. Private doctors, hospitals, and agencies are working together to make ISIS work for you.
- ( ) **THE PURPOSE OF ISIS IS** to better plan services for children, to coordinate services to babies and young children and to work toward having services available for children as early in life as possible. Some of these services are audiology, speech / language, nursing, nutrition, occupational therapy (OT), physical therapy (PT), psychological, social work, special instruction in school.
- ( ) **ISIS WILL HELP CHILDREN AND THEIR FAMILIES** by helping families who receive many services understand what they are getting; helping families when children change from one program to another; by making sure all information about services received is available at any time; by helping to avoid duplication of services; by helping professionals to help families find services for their children and themselves.
- ( ) **THE ONLY INDIVIDUALS AGENCIES WHO WILL BE ALLOWED TO LOOK AT THE INFORMATION** are those listed on the front of the Consent for Release of Information form you signed. You may add others, or refuse permission to any one of the listed agencies. Only those agencies or individuals who are providing services to your child and your family would have a need or interest in viewing your information.
- ( ) **THE KIND OF INFORMATION THAT WILL BE ENTERED INTO THE ISIS SYSTEM** will be information that makes it possible to keep track of the services your child and your family receives, for example: name, address, phone, risks for developmental delay, medical diagnosis, plan of service, referrals. Information from private, confidential conversations you may have with any individual working with you and your family will not be part of this computer information.
- ( ) **YOU MAY ASK AT ANY TIME WHICH INDIVIDUALS OR AGENCIES ARE LOOKING AT INFORMATION ABOUT YOUR CHILD** and you have the right to change the list of those able to share information about your child at any time.

\*\*\*\*\*

- ( ) **I NEED TO KNOW THAT I HAVE EXPLAINED THIS PROGRAM TO YOU CLEARLY, AND THAT YOU UNDERSTAND IT** so would you please tell me:
- ( ) How do you think ISIS works? (let him / her explain in his / her own words – without prompting).
- ( ) What benefits do you expect to get from participating in ISIS?
- ( ) **HAVE YOU MADE SURE THE PARENT UNDERSTANDS EVERYTHING YOU HAVE SAID?**

\_\_\_\_\_  
Signature of Agency Individual Obtaining Consent to Participate in ISIS

**PLEASE ASK PARENTS**

Yes                      No  
[ ]                        [ ]

I would like to be part of a statewide parent-to-parent network for support and sharing of information. Therefore please release my name and address to the Parent Information Center of DE., Inc.

form 10

## Staff Oath of Confidentiality

### OATH OF CONFIDENTIALITY

I, the undersigned, hereby agree not to divulge any information or records concerning any participant without proper authorization in accordance with state and federal law and interagency agreement(s). I recognize that any discussion of or release of information concerning a participant to any unauthorized person is forbidden and may be grounds for legal and / or disciplinary action.

During the performance of my assigned duties, I will have access to confidential information required for effective family services coordination and delivery. I agree that all discussions, deliberations, records and information generated or maintained in connection with these activities shall not be disclosed to any unauthorized person.

I recognize that unauthorized release of confidential information will (Cite regulatory provision regarding penalties here. Example: Provisions of Welfare and Institutions Code, Section 5330; and Title 42, Code of Federal Regulations, Part 2. that exposes me to personal civil liability and personal fines).

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ NAME (Print): \_\_\_\_\_  
Center Employee

TITLE: \_\_\_\_\_

form 11

## Sample Staff Oath

<p>STAFF OATH</p> <p>RECLAIMING FUTURES INTEGRATED DELIVERY SYSTEM</p> <p>INITIAL CASE CONFERENCE TEAM MEMBERS CONFIDENTIALITY STATEMENT</p> <p>I, as a member of the initial case conference team participating in the Kentucky Integrated Delivery System, understand that confidentiality of identifiable information shall be maintained according to Part V, Privacy Act of 1974 and the Kentucky Revised Statutes on Confidentiality: (KRS 194.060, KRS 200.490, KRS 210.235, KRS 210.670, KRS 222.270)</p> <p>The oral information presented at case conference meetings will not be released to other non-participating agencies / persons without the express written consent of the parent / guardian.</p> <table><thead><tr><th style="text-align: center;">SIGNATURE</th><th style="text-align: center;">AGENCY</th></tr></thead><tbody><tr><td>_____</td><td>_____</td></tr><tr><td>_____</td><td>_____</td></tr><tr><td>_____</td><td>_____</td></tr><tr><td>_____</td><td>_____</td></tr><tr><td>_____</td><td>_____</td></tr><tr><td>_____</td><td>_____</td></tr></tbody></table> <p>DATE _____</p>		SIGNATURE	AGENCY	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
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# form 12

## Sample Memorandum of Understanding

**This Agreement**, made and entered into as of the date set forth below, by and between the following agencies:

[List Agencies Here]

**WHEREAS**; all parties are committed to create a seamless community system of care that can habilitate substance-abusing youth who are at risk and involved in the juvenile justice system; and

**WHEREAS**; the parties to this agreement desire a maximum degree of long range cooperation and administrative planning in order to provide an integrated system of care for substance abusing youth who are in the juvenile justice system and their families; and

**WHEREAS**; all parties are committed to improving services to children in the juvenile justice system through sharing information, eliminating duplication of services and coordinating efforts; and

**WHEREAS**; all parties mutually agree that sharing resources where feasible may result in improved coordination of services; and

**WHEREAS**; it is the understanding by all parties that certain roles in serving children and youth are required by law, and that these laws serve as the foundation for defining the role and responsibility of each participating agency; and

**WHEREAS**; all parties mutually agree that all obligations stated or implied in this agreement shall be interpreted in light of, and consistent with governing State and Federal laws;

**NOW THEREFORE** in consideration of the foregoing agreements, the parties do hereby covenant and agree to do the following:

**EACH OF THE PARTIES AGREE TO:**

1. Promote a coordinated effort among agencies and staff to achieve the coordinated juvenile justice, treatment, and community response that is needed to create the systems of care that can habilitate substance-abusing youth.
2. Participate in interagency planning meetings as appropriate.
3. Assign staff, as appropriate, to participate in a consolidated case management system, reentry into school of children returning from detention or commitment program, and other information sharing activities to assess and develop plans for those youth involved in the juvenile justice system.
4. If applicable, participate in the planning and implementation of a juvenile assessment and treatment plan to the extent feasible for each party.
5. Jointly plan, and / or provide information and access to training opportunities as deemed necessary.
6. Develop internal policies and cooperative procedures, as needed to implement this agreement to the maximum extent possible.
7. Comply with relevant state and federal law and other applicable local rules and ethical standards, which relate to records use, dissemination, and retention / destruction.
8. Comply with relevant state and federal law and other applicable local rules and ethic standards, which relate to the dissemination of information, whether in writing or oral.

**THE JUVENILE COURT AGREES TO:**

1. Consider the issuance of court orders necessary to promote the goals of this agreement, particularly information sharing between the agencies involved.
2. Develop, in coordination with the probation department, local service providers, school and other members of the collaborative, a plan to determine the procedures to take when a child is non-compliant with the treatment plan.
3. Develop appropriate internal written policies and procedure to insure that confidential information is disseminated only to the appropriate personnel and pursuant to a lawfully obtained consent form, unless otherwise proscribed by law.

**THE DEPARTMENT OF PROBATION AGREES TO:**

1. Share dispositional, placement, and case management information with other agencies as appropriate for purposes of assessment, placement, and enhanced supervision of juveniles.
2. Develop, in coordination with the court, local service providers, school and other members of the collaborative, a plan to determine the procedures to take when a child is non-compliant with the treatment plan.
3. Develop appropriate internal written policies and procedures to insure that confidential information is disseminated only to the appropriate personnel and pursuant to a lawfully obtained consent form, unless otherwise proscribed by law.

**TREATMENT PROVIDERS AGREE TO:**

1. Develop appropriate internal written policies and procedures to insure that confidential information is disseminated only to the appropriate personnel and pursuant to a lawfully obtained consent form, unless otherwise proscribed by law.
2. Develop appropriate internal written policies and procedures to insure that confidential information is disseminated only to the appropriate personnel and pursuant to a lawfully obtained consent form, unless otherwise proscribed by law.
3. Share case management information with other agencies as appropriate for purposes of assessment, placement, and enhanced supervision of juveniles as allowed by state and federal law and pursuant to a lawful informed consent.

**THE DEPARTMENT OF HEALTH OR SOCIAL SERVICES OR SIMILAR AGENCY AGREES TO:**

1. Provide notice to the superintendent of schools or a designee, immediately upon the initiation of planning efforts with private nonprofits or governmental entities, including agencies a part of this agreement, which could result in the creation, relocation or expansion of youth services programs, which may impact the school district.
2. Develop, in coordination with the court, local service providers, school and other members of the collaborative, a plan to determine the procedures to take when a child is non-compliant with the treatment plan.
3. Develop appropriate internal written policies and procedures to insure that confidential information is disseminated only to the appropriate personnel and pursuant to a lawfully obtained consent form, unless otherwise proscribed by law.
4. Will release information pursuant to a legally obtained consent form, upon request by a collaborative team member on a need to know basis.

**THE SCHOOL SUPERINTENDANT AGREES TO:**

1. Notify the collaborative immediately if the youth is at risk of failing school or has failed to attend school as required.
2. Shall designate a contact person to be responsible for receiving confidential criminal history information from the court or law enforcement about a given youth.
3. Shall request criminal history information only for the purposes of assessment, placement or security of persons or property unless legally entitled to said information.
4. Develop appropriate internal written policies and procedures to insure that confidential information is disseminated only to the appropriate personnel and pursuant to a lawfully obtained consent form, unless otherwise proscribed by law.
5. Share information on student achievement, and behavioral and attendance history on juvenile offenders and juveniles at risk of becoming offenders with the parties to this agreement, for the purposes of assessment and treatment.

**LAW ENFORCEMENT OFFICER AGREES TO:**

1. Share summary criminal history information with respective team members regarding juveniles in the program with the schools or other treatment personnel for the purposes of assessment, placement, or security of persons or property pursuant to statute and / or legally obtained consent.
2. Develop, in cooperation with the team appropriate internal written policies to insure that confidential information is disseminated only to appropriate personnel.
3. Develop, in coordination with the court, local service providers, school and other members of the collaborative, a plan to determine the procedures to take when a child is non-compliant with the treatment plan.

**THE PROSECUTOR AGREES TO:**

1. Notify the team when a participating youth is going to be formally charged with a felony or with a delinquent act which could jeopardize their participation in the program in a timely manner.
2. Develop, in coordination with the court, local service providers, school and other members of the collaborative, a plan to determine the procedures to take when a child is non-compliant with the treatment plan.
3. Will treat all information obtained during the course of treatment as confidential and will not use information obtained from a youth during his / her participation in the program against them to bring new or additional changes.

**THE DEFENSE ATTORNEY AGREES TO:**

1. Explain the operation of the project and the expectations of the youth for participation.
2. Shall exercise good faith in obtaining consent to share information from the youth and their families.
3. Develop, in coordination with the court, local service providers, school and other members of the collaborative, a plan to determine the procedures to take when a child is non-compliant with the treatment plan.

4. Educate the members of the collaborative about the limitations on information sharing by defense attorneys because of the professional rules of conduct.
5. Shall in good faith assist the youth and their families in complying with the expectations and orders of the integrated network developed for the youth.
6. Develop, in cooperation with the team appropriate internal written policies to insure that confidential information is disseminated only to appropriate personnel.

**PARENT AGREES TO:**

1. Participate and cooperate with the professionals in the integrated treatment network by providing honest feedback and information regarding the progress of their child.
2. Shall in good faith assist the youth in complying with the expectations and orders of the system of care developed for the youth.
3. Develop, in coordination with the court, local service providers, school and other members of the collaborative, a plan to determine the procedures to take when a child is non-compliant with the treatment plan.

**YOUTH AGREES TO:**

1. Cooperate with the integrated network team by signing release of information forms, speaking truthfully about his / her progress in treatment and by complying with the terms and conditions of admittance.
2. Help to develop a plan that works for them.

**ADMINISTRATIVE TERM OF AGREEMENT:**

This agreement shall be in effect as of the date the agreement is signed by the majority of the initiating parties and shall renew automatically unless otherwise modified. All parties are signatory to this agreement when signing or when the majority of the initiating parties signs, whichever is later. Any party signatory to this agreement may terminate participation upon 30 days notice to all other signed parties to this agreement.

**AGENCY REPRESENTATIVES:**

The parties will develop procedures for ongoing meetings and will, at least annually review and if necessary, recommend any changes.

**MODIFICATION OF AGREEMENT:**

Modification of this agreement shall be made only by consent of the majority of the initiating parties. Such shall be made with the same formalities as were followed in this agreement and shall include a written document setting forth the modifications, signed by all the consenting parties.

**OTHER INTERAGENCY AGREEMENTS:**

All parties to this agreement acknowledge that this agreement does not preclude or preempt each of the agencies individually entering into an agreement with one or more parties to this agreement. Such agreements shall not nullify the force and effect of this agreement. This agreement does not remove any other obligations imposed by law to share information with other agencies.

**SIGNATURES OF PARTIES TO THIS AGREEMENT:**

Upon signing this agreement, the original agreement and signature shall be filed with the clerk of the court. A certified copy of the agreement and signatures shall be provided to each signatory to the agreement.

### **RE-RELEASE OF INFORMATION**

All parties to this agreement are expressly prohibited from releasing information to third parties not covered by this agreement. This agreement is for the free exchange of information between parties of the agreement in order to give the most complete services available.

***Caution: All professionals who work on developing an interagency information-sharing document should ensure that the laws of their state permit information and record sharing. Furthermore, this agreement is just an example of the possibilities. It is a starting point.***

# form 13

## Confidentiality Statutes

State	Category	Statutes/Legislation	Description
Alabama	Confidentiality	1996 Act 524: TITLE 12. COURTS, CHAPTER 15. JUVENILE PROCEEDINGS ARTICLE 3 Sec. 12-15-100	Requires certain records of delinquent, in need of supervision, and dependent children to be open to inspection and copying by certain people or agencies. Requires that a person who knowingly discloses such information commit a misdemeanor.
Alabama	Confidentiality	2000 H 491	Permits sharing with school officials social, medical, psychiatric or psychological records of delinquents. Requires law enforcement personnel to report to the Alabama Criminal Justice Information Center when a child is taken into custody for a delinquent act that would constitute a misdemeanor or a felony if committed by an adult.
Alabama		(1996): Sec. 12-15-100 (a) and (d)	Requires certain records of delinquent, in need of supervision, and dependent children to be open to inspection and copying by certain people or agencies. Requires that a person who knowingly discloses such information commit a misdemeanor
Alaska	Confidentiality	1995 Alaska Sess. Laws, Chap. 32	Directs agencies to work with school districts and private schools to develop procedures for disclosure of information about minors to school officials.
Alaska	Collaboration, confidentiality	1997 HB 127, Sec.4	Allows school officials' access to information regarding permanency planning cases and encourages school support services for the child.
Alaska	Collaboration, confidentiality	1995 Session Laws, Chapter 32	Directs agencies to work with school districts and private schools to develop procedures for disclosure of information about minors to school officials.
Arkansas	Collaboration, confidentiality	1997 Ark. Acts, Act 230, Section 1	Requires the school district to determine reasons why a student leaves school and allows it to share such information with other government agencies.
Arkansas	Collaboration, confidentiality	1995 Ark. Acts, Act 888	Requires school principals to report all felonies or other violent criminal acts committed against a school employee or student to the local law enforcement agency and school district.
California	Confidentiality	2000 S 199	Places limits on who may inspect a juvenile case file and requires that certain persons must petition the juvenile court for access to such files. Allows the juvenile court to release the file if disclosure is not detrimental to the safety, protection, or physical or emotional well-being of another child who is connected to the case.

Colorado	Collaboration, confidentiality	1996 Colorado Sess. Laws, Chap. 107 Sec. 22-33-106.5, 24-72-204 (3)(c)	Allows information on disciplinary actions to be sent to other schools. Allows principals to share disciplinary information with teachers and counselors who work with the student. Requires notification to schools when students are adjudicated or convicted of certain offenses.
Colorado	Collaboration, confidentiality	Colorado Sess. Laws, Chap. 283 (1996): Sec. 19-2-508 (3)(a)(VI)	Requires the court notify the school district in which a juvenile is enrolled if it orders release of the juvenile from preadjudication detention and requires the juvenile to attend school.
Colorado	Collaboration, confidentiality	Colorado Sess. Laws, Chap. 230 (1996): Sec. 6	Authorizes state agencies and schools to exchange information on delinquency and dependency, and neglect cases. Outlines a process for parental notification and consent.
Colorado	Collaboration, confidentiality	1996 H 5317 Colorado Sess. Laws, Chap. 230	Gives certain agencies access to juvenile court records and requires sharing of records among agencies. Gives the department of children and families access to a delinquent's education, health, placement, and court records. Outlines a process for parental notification and consent. Requires a consent form for voluntary exchange. Specifies procedures in involuntary cases. Consolidates all records provisions in the children's code.
Colorado	Collaboration, confidentiality	1999 H.B. 1119	Authorizes and encourages open communications among appropriate agencies, including criminal justice agencies, assessment centers for children, school districts, and schools, in order to assist disruptive children and to maintain safe schools.
Florida	Collaboration, confidentiality	Florida Laws, SB 156 (1996): Sec. 8-21	Extends records disclosure to all ages of juvenile offenders who commit certain crimes. Clarifies notification to schools and criminal justice agencies and release procedures.
Florida	Collaboration, confidentiality	1998 SB 2288	Allows the department of juvenile justice and other state or local criminal justice agencies to provide juvenile offender history records to contract operators of juvenile assessment centers, detention facilities or treatment programs.
Georgia	Collaboration, confidentiality	Georgia Laws, Act 926 (1996): Sec. 1	Authorizes the Department of Children and Youth Services to notify the school, or the superintendent of the school system in that the child was enrolled, of a child's release from confinement or custody and the delinquent or felony act committed.

Georgia	Collaboration, confidentiality	Georgia Laws, Act 328 (1995)	Gives public access to juvenile adjudicative hearings when a felony is alleged or when the juvenile has been previously adjudicated delinquent. Requires written notice to school superintendents when this category of offender is attending school. Permits fingerprinting and photos to be taken of juveniles charged with the adult equivalent of burglary or any other offense where adult court has exclusive or concurrent jurisdiction.
Georgia	Collaboration, confidentiality	Georgia Laws, Act 0831 (1998): Sec. (2)(c):	Permits inspection of juvenile records by the juvenile court that has jurisdiction over the child; counsel; certain public institutions or agencies to which the child is committed; law enforcement; the court that convicted the child; penal institutions; a parole board; and school officials.
Indiana	Mental Health/ Confidentiality	1999 Ill. Laws, H.B. 1194	Requires immediate notification to school officials and law enforcement personnel of any person who possesses a firearm on school grounds, provided such action would not immediately endanger the health, safety or welfare of students or the school official. Allows the court to order the minor to receive counseling and any other services as a condition of release of the minor. Permits the court, if the juvenile possesses a risk, to issue an order restraining the student from entering school property if he or she has been suspended or expelled from school due to firearm possession.
Iowa	Confidentiality	1995 Iowa Acts, Chap. 191 Sec. 4	Requires a peace officer who takes a juvenile into custody for a drug and alcohol offense to notify a juvenile court officer. Requires the juvenile court officer to try to notify the juvenile's school.
Kansas	Confidentiality	1994 Kan. Sess. Laws, Chap. 282	Expands notice requirement regarding the placement and release of certain juvenile offenders to include local law enforcement and school districts. Provides that school districts be involved in developing release policies.

Kansas	Collaboration/ Confidentiality	1996 Juvenile Justice Reform Act Kan. HB 2900	Juvenile Justice Authority will review existing and effective prevention programs, develop risk assessment tools and establish pilot community-based programs creates dual jurisdiction of juvenile and criminal courts for youths who have committed violent crimes. Juveniles convicted in an adult court may have the adult sentence stayed if they complete conditions of a juvenile sentence. The reform bill also allows juveniles as young as 14 to be prosecuted as adults for certain felonies, expands information sharing among certain individuals and agencies, allows for increased parental involvement in dispositions ordered for a juvenile, and authorizes local school boards to establish truancy boards.
Kansas	Confidentiality	1996 Kansas Sess. Laws, Chap. 229 Sec. 33(a)(b)	Prohibits disclosure of records or reports concerning a child in need of care. Allows certain people and entities to have free exchange of information.
Kansas	Collaboration	1999 Kan. Sess. Laws, H.B. 2489	Appropriates funds for the new Experimental Wraparound Kansas Project administered by the State Board of Education. Requires the State Board to make awards to applicant school districts in collaboration with community mental health centers to implement mental health support services in the school setting that focus on violence prevention.
Kentucky	Confidentiality	1996 Ken. H.B. 117 KY Rev. State Sec. 15A	Creates the Department of Juvenile Justice with responsibility for developing programs to identify and provide early intervention services to youths at risk of becoming offenders. The law also addresses and expands sharing of certain juvenile court records among a variety of agencies and people specified by the law, and makes public records of juveniles who commit serious and violent acts.
Maine	Confidentiality	LD 1658	Allows the district attorney to provide to a juvenile's school the name of the juvenile and information about the alleged offense or offense when the juvenile is charged or is adjudicated for committing an act that involves use or threatened use of physical force against a person. Prohibits further dissemination of the information or placing it in the student's education record.
Maryland	Confidentiality	L.D. 1933 Public Law No. 595	Allows a juvenile's school to disseminate information about the juvenile to the juvenile court and a criminal justice agency under certain conditions.

Maryland	Collaboration/ Confidentiality	1994 Md. Laws, Chap. 299	Allows agencies to request disclosure of client information upon written consent of the client for the purpose of improving information exchange among agencies serving children, youth, and families. Clarifies that the Subcabinet for Children, Youth and Families can request certain client information without written consent if the information will be used for planning, budgeting, evaluation or analysis.
Minnesota	Confidentiality/ Collaboration	1994 Minn. Laws, Chap. 618	Allows school districts, counties and public health entities providing collaborative services to families to disclose without consent whether an individual or family is receiving services. Allows sharing of further information with consent.
Minnesota	Confidentiality	1994 Minnesota Laws Chap 636	Requires a probation officer to transmit a disposition order in certain delinquency cases to the principal of a juvenile's school. Requires law enforcement agencies to notify a school principal about a juvenile offense under certain conditions. Allows data that schools receive from courts and law enforcement to be used for protection and students needs. Restricts access to data to protect juvenile witnesses. Establishes information dissemination procedures. Removes a limitation on the release of juvenile data to victims for enforcing their right to restitution.
Minnesota	Confidentiality	H.F. 2833 Chapter 451	Authorizes schools to give the juvenile justice system specified information about a juvenile on probation, expands the juvenile court disposition orders schools will get and clarifies how disposition orders can be used by the schools.
Montana	Confidentiality	1999 Mont. Laws, H.B. 310, Chap. 564	Establishes drug free and crime free schools. Requires the youth court to notify a school when a juvenile probation officer suspects that a youth is currently involved with criminal activity or drug use. Provides for the safety of children. Permits the school district to disclose educational records that pertain to violations of juvenile or criminal laws. Makes the information confidential without parental or student consent, except under state law.
Nevada	Collaboration/ Confidentiality	1994 Neb. Laws, L.B. 1224, Secs. 68-1732, 68-1734	Requires development of organization mergers and operating agreements to bring together community-based, child-serving and family-serving resources and requires linked agencies to develop single, common application and assessment procedures.

North Carolina	Confidentiality/ Collaboration	North Carolina Sess. Laws, SB 0352 (1997): Sec. 8.29, 18.15	Requires that juvenile court counselors provide notice to the school when a juvenile is alleged or found to be delinquent. Provides for confidentiality of such notices. Requires the Administrative Office of the Courts to compute and report the recidivism rates of juveniles adjudicated delinquent for certain offenses.
Oklahoma	Confidentiality	H 2214	Makes confidentiality requirements for juvenile court records and law enforcement records inapplicable to arrest records of a juvenile arrested for committing an offense which, if committed by an adult, would be a felony.
Oregon	Confidentiality	2000 S 449	Requires notifying the school district when a person under age 18 who lives in that district is charged with a crime or convicted of a crime, or after waiver to adult court. Requires notification to law enforcement agency and the school district in the community in which the youth offender will reside of the offender's release or discharge from a youth correction facility. Makes information related to a child's history and prognosis confidential except to certain people.
Oregon	Confidentiality	2000 Oregon H 2744	Establishes an electronic juvenile justice information system administered through the Oregon Youth Authority, in accordance with the criminal justice information standards program. Requires rules related to confidentiality, state and county roles and costs, and county reporting requirements.
Pennsylvania	Confidentiality	1999 Penn. Laws, S.B. 97- 494	Authorizes interagency sharing of juvenile records upon agreement between the district school superintendent and juvenile probation officer.
Texas	Confidentiality	Texas Gen. Laws, Chap. 626 (1995)	Requires that instructional and support staff be notified when a student is arrested for certain criminal offenses. Mandates confidentiality.
Texas	Confidentiality	1999 Tex. Gen. Laws, H.B. 1749	Permits school districts to prohibit certain expelled students from enrolling in the same school as their victims. Authorizes the disclosure of information contained in the educational system by establishing the terms under which an interagency agreement must be written before an exchange of certain information between the educational and juvenile justice information systems may take place.

Virginia	Confidentiality	Virginia Acts, Chap. 0870 (1998)	Clarifies principal's role in distributing information to specific teachers in direct contact with students who have certain adjudications or convictions.
Virginia	Confidentiality	1998 H 1104	Permits a principal to disseminate information regarding adjudications or convictions of a student for certain serious crimes to licensed instructional personnel and other school personnel who provide direct educational or support services to the student and have a legitimate educational interest in such information. Removes the requirement for dissemination that a student must pose a danger to himself/herself or others or that disclosure will facilitate the student's appropriate educational placement or other educational services.
West Virginia	Confidentiality	1998 West Virginia Acts, HB 2135	Expands the reasons for and categories of persons to which juvenile records can be released.
Wisconsin	Confidentiality	1995 Wisconsin Laws, Act 77 Sec. 938.396, 118.125 & Sec. 938. 78, 51	Allows exchange of information between social services and other agencies. Requires notification to schools and law enforcement agencies, among others, when a juvenile is released from custody or supervision. Grants a parent access to records at the site of their child's placement.
Wisconsin	Confidentiality	1995 Wisconsin Laws, Act 77 Sec. 938.396, 118.125	Eliminates the opportunity for a juvenile's parent to object to disclosing information to schools and specifies school notification procedures and liability.
Wisconsin	Confidentiality	1998 A 410	Requires that public or private school officials, law enforcement agencies, and social welfare agencies that obtain information about law enforcement officers' records of children keep the information confidential. Requires the court to open juvenile records to persons or organizations preparing a presentence investigation or courts exercising jurisdiction.